

TEXAS PRIVATE SECURITY BOARD

**REGULARLY SCHEDULED BOARD MEETING HELD AT 9:00 A.M.,
JULY 17, 2019**

**TEXAS DEPARTMENT OF PUBLIC SAFETY
6100 GUADALUPE ST, BLDG E
CRIMINAL INVESTIGATIONS BUILDING
AUSTIN, TX 78752**

BOARD MEMBERS PRESENT:

Honorable Patti James, Chairwoman
Honorable Wade Hayden
Honorable C. D. Siems
Honorable Alan Trevino
Honorable Debbra Ulmer

BOARD MEMBERS NOT PRESENT:

Honorable Derrick Howard
Honorable Stephen Willeford

STAFF PRESENT:

Wayne Mueller, Chief, Regulatory Services Division;
Valerina Walters, Managing Attorney, Office of Regulatory Counsel;
Chris Sims, Senior Manager, Licensing and Registration Service;
Huel Haynes, Manager, Licensing and Registration Service;
Ryan Garcia, Assistant Manager, Licensing and Registration Service;
Jay Alexander, Major, Regulatory Crimes Service;
Steve Moninger, Senior Policy Analyst, Regulatory Services Division

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 recording on file at the Board's office.

Chairwoman James called the meeting to order at 9am. She recognized former Texas Private Security Board Chairman John Chism for his 12 years of service to the Board.

Agenda Item I: Approval of Minutes for Board Meeting held April 25, 2019

Chairwoman James introduced this agenda item. Upon review, Board member Hayden made a motion to accept the minutes as submitted. Board member Siems seconded the motion and the board voted unanimously in favor.

Agenda Item II: Quarterly Reports from Regulatory Services Division

Chief Wayne Mueller was first to address the board. He stated that he had three topics to go over:

1. Unlicensed activity in the industry
2. Changes to the Board
3. Changes to the Private Security Rules

Unlicensed activity in the industry- Chief Mueller stated that at the last meeting concerns were raised regarding locksmith unlicensed activity. He went on to say that he received documents outlining this activity and sent it to Chief Tom Ruocco in the Criminal Investigations Division (CID). He further stated that when the Regulatory Services Division (RSD) was first formed, it had a dual role, to conduct regulatory compliance action and also criminal law enforcement. Over time it was determined that the most efficient use of RSD's commissioned personnel was to transfer them over to CID, leaving 2 commissioned personnel: Major Jay Alexander and Lieutenant Darryle Sparks. He stated that intake of possible cases come through RSD's compliance section to determine if the complaint can be handled through ordering a cease and desist or if the company can become licensed and therefor in compliance. If neither of these are possible then the complaint is sent over to CID for investigation and further action. He introduced Captain Jeff Buuck to the Board for further explanation of the process.

Captain Buuck stated CID is divided into two sections- organized crimes and special investigation section. He went on to say that they have a process in place and when RSD finds they have a case for enforcement they send it to CID for evaluation, who then assigns it to staff for investigation and action. Lieutenant Melinda Lowery, who has twelve years of experience with RSD and Private Security, is the main contact in CID for these cases. If the case is valid it is sent to the proper regional personnel and entered into SPURS, which will give the disposition whether that be resulting in arrest or administrative violation.

Changes to the Board- Chief Mueller stated that as the Board transitions to an Advisory Committee there will be many changes. He first wanted to touch on what will remain the same, the rulemaking process. He explained that as the division finds rules that need updating or changing they will send it to the Advisory Committee for voting then through the rulemaking process up to the Public Safety Commission for consideration. He went on to say that one thing that will be changing is the final disposition of regulatory matters, as the Public Safety Commission will now have the final say in hearings after they are heard at SOAH. He also stated that another area of change will be to processes. Meetings of the Advisory Committee will be more informal than the Board meetings. He went on to say the public comment section of the meetings will be done differently, as the public or industry members will come to the committee members and allow them to be their voice. As of September 1st the Texas Private Security Board will stand down and the Advisory Committee will step up. The Public Safety Commission's

next meeting was scheduled to be held on August 8, 2019 to discuss and take action regarding the new PSAC. The format of the advisory committee will remain the same with seven members, three public and four from the industry. He went on to say that another change will be reimbursement on travel. In order for members to receive reimbursement for their travel it has to be in statute along with a rider appropriating the funds. As there was no rider attached during the last Legislative session, for the next biennium the advisory committee members will not be able to receive reimbursement for their travel.

Steve Moninger was introduced to the board to speak regarding changes to Private Security Rules. Mr. Moninger began by saying there is a reference to 25% ownership on company applications and another reference to 51% ownership on individual registration. On a company application, when it refers to an officer overseeing security related aspects of the business, shareholders or owners of 25% are the people who will have to submit fingerprints and a background check. Of those, one person will take the exam and be called Company Representative. Company Representatives will have a lot of the same responsibilities as the manager had, but there will be no license. He explained that the plan is for Managers who are active September 1, to become Company Representatives until the company license expires. Sole proprietors will have no option other than to be an owner officer. Only owners who own 51% of the company will be registered and have a pocket card and able to perform regulated services. Owners of 25% - 50% will not gain a pocket card or perform regulated services, if they want to do that they will need to gain an individual registration. Secretary Ulmer asked what percentage of ownership a person would need to have in order to be a company representative, to which Mr. Moninger stated 25%, or alternatively they would need to be an officer in charge of security.

Mr. Moninger stated that in regards to the transition of the Administrative rules, the division has a rough draft and are working to ensure it meets all requirements. He further stated they need to get it to the office of General Counsel by August 29th in order to have it included on the agenda for the October PSC Meeting. Best case scenario the Rules would be effective January 1, 2020. In the interim, any rules related to the deregulated licenses will be void as of September 1.

Assistant Manager Ryan Garcia presented the licensing totals for the third quarter, 3/1/2019 to 5/31/2019. He stated, for this time period, the Division received 415 original company applications, 2,124 company renewals, 15,962 original individual applications, and 10,326 individual renewals. He went on to say, for the same time period the Division processed the following licenses/registrations:

- 374 original company licenses (320 online, 54 manual),
- 2,104 company renewals (2,076 online, 28 manual),
- 13,807 individual registrations (13,564 online, 243 manual),
- 11,617 individual renewals (11,229 online, 388 manual),
- 8,849 employee information updates (8,791 online, 58 manual).

He also stated this time period showed 6,425 active company licenses, 486 active school licenses, and 156,648 active individual registrants.

Major Jay Alexander presented the enforcement totals for the third quarter, 3/1/2018 to 5/31/2019. He stated, for this time period, the Division issued 366 denials, 302 license suspensions, 5 license revocations, and collected \$625 in fines (4 fines). He went on to say the

Division also performed 10 Guard Inspections and 1 Business Inspection. Of the 123 complaints that the Division received, 81 were resolved while 69 remain under investigation. He went on to give the total numbers for the year:

- Denials- 997
- Fines- 24
- Collected- \$3,775
- Suspensions- 1135
- Revocations- 36
- Guard Inspections- 401
- Business Inspections- 691
- Complaints received- 373
- Resolved/Closed- 184
- Pending/Open- 230

Agenda Item III: Report from Rules Committee

Board member Hayden addressed the board regarding this agenda item. He stated there had been no further discussion regarding rule §35.4 since the last meeting. Board member Hayden stated that he would again give his email and ask that anyone with suggestions or input contact him. The Email address is whayden@7750law.com

Board member Hayden stated he received one comment regarding §35.121, and that comment was that there should be no changes made, but no reasons as to why.

For §35.123, Board member Hayden stated he received comments regarding lack of enforcement and the opinion that locksmiths should be deregulated. He stated he thought they should wait and see if any further comments come in.

Chairwoman James stated that in the absence of comments regarding these rules there would be no action taken at this time.

Agenda Item IV: Discussion and possible action regarding Rule §35.4, Guidelines for Disqualifying Criminal Offenses

No further discussion at this time.

Agenda Item V: Discussion and possible action regarding Rule §35.121, Investigations Company License

No further discussion at this time.

Agenda Item VI: Discussion and possible action regarding Rule §35.123, Locksmith Company License

No further discussion at this time.

Agenda Item VII: Public Comment

Susan Griswold, with ASSIST, addressed the board. She began by stating that on behalf of the association and herself she wanted to thank the Board members for their service. She stated that the Board has been the industry's voice and consistently voted in the interest of public safety and made the State a better place. She also wished to thank DPS staff for their tireless efforts and dedication in helping the industry navigate the regulatory process.

Ed Martin, with TALI, addressed the board. He echoed Ms. Griswold's statement.

Mark Dawson, with Dawson Safe & Lock, addressed the board. He stated that his comments were concerning §35.123, which is clear in the options for obtaining a locksmith license. Option 1 is to perform 2 years full time employment with a licensed and experienced locksmith. Option 2 is to comply with the education requirements set forth in the rule. He stated he did not know of any operating locksmith who fulfilled the requirements under option 2. Option 1 was a requirement of state. Option 2 was authored by the locksmith industry and adopted in 2012. The need to change either of these rules does not exist for the simple fact that no one is checking or verifying the experience requirements of any applicants. Industry has had an exponential growth of unlicensed locksmiths. The need to change this rule does not exist, but the need to change the processes in the Department does.

Bonnie Brown Morse, with AAAA Key & Lock, addressed the Board. She stated that she wished to extend a Thank you to the Board as well. She also stated that she wanted to tell Board member Hayden she understood that if they wanted the rules to stay as they were then they didn't need to contact him. She did not know that they would need to contact him if they wanted it to stay the same. She finished by stating that she would email him with her input.

John Arnold, with TLA, addressed the board. He stated that there are a lot of locksmiths who do not have the proper experience and who are not vetted by the Department. People do not realize some of the technology at locksmiths' disposal, and that if they wanted to go outside of the law they easily could. He explained that Locksmiths know how to break into safes, homes, and steal cars. He stated theirs is an ethical industry. If people lie on application to gain license, he would not be comfortable with them having keys to his daughter's apartment.

A representative from Eagle I, addressed the board. They stated they agreed with Mr. Arnold's comments.

Tom Krieg, with Krieg & Assoc, addressed the board. Mr. Krieg stated that he works for a company that has 12 million owners, so when talking about 51% ownership they do not fit into a box. It is not simple to decide ownership. Another area he wanted to touch on was training. He stated that training is not up to date with society. Level 2, level 3, and PPO has not been kept up. His suggestion is that going forward they need to bring in subject matter experts to train on these subjects.

Chairwoman James stated that serving on this board has been one of the most humbling and gratifying things she's done. She wanted to thank all of her fellow board members and DPS staff for their help and support.

Board member Siems stated that he wished to thank Charwoman James for putting up with the board and them not knowing what they were doing. He went on to thank Board member Hayden, stating that without him and his direction the board would be in trouble. He wished to also thank DPS staff. To the locksmith industry he stated he wanted to thank them for coming in because they need to get up and be heard in order to effect change.

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

Chairwoman James called for an executive session which began at 10:15am.

The meeting was called back to order at 10:27am.

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

Chairwoman James called roll to determine which individuals with cases before them, were present. She further stated that in the interest of time for those who were present for their hearing, she would hear them first.

- Dwight Allan Sepich- Docket No. 405-19-1763
- Royce Ellison - Docket No. 405-19-2750
- Eddie Lanier - Docket No. 405-19-1310
- Sherrie Carolyn Lopez - Docket No. 405-19-2500
- Mark Jason Ryan - Docket No. 405-19-1905
- Izaak Savell - Docket No. 405-19-3490

Attorney for the Department, Cynthia Marple, presented the following case to the board.

Mark Jason Ryan - Docket No. 405-19-1905:

Mr. Ryan was present to address the board on this matter, but did not have counsel present on his behalf. Ms. Marple stated Mr. Ryan's application for registration as a commissioned security officer and personal protection officer was summarily denied based on his Class A Misdemeanor conviction for Assault by Public Officer under California Penal Code section 149.

Mr. Ryan stated that he wanted to come before the board and state his case. He stated the judge ruled that it was an unrelated offense to his current job. He stated it was expunged in California but not under Texas law. He went on to say that the State of Texas has given him his LTC, which has very similar requirements. He further stated that he is an honorable retired police officer and volunteers with the Boy Scouts. He stated this was his only criminal action prior to or since.

Board member Hayden stated that the ALJ did analysis of California Class A misdemeanor versus Texas Class B misdemeanor. The ALJ provided good analysis and looked at type of punishment. Ms. Marple stated the ALJ felt it was equivalent. Board member Hayden stated that applying Chapter 53, if related he would be eligible October 31, 2019. Ms. Marple stated that was correct.

Secretary Ulmer made a motion to uphold the ALJ's decision and grant Mr. Ryan's application for registration as a commissioned security officer and personal protection officer. Board member Siems seconded the motion. The motion passed unanimously.

Attorney for the Department, Destinee Hicks, presented the following cases to the board.

Dwight Allan Sepich - Docket No. 405-19-1763:

Mr. Sepich was not present to address the board on this matter, nor did he have counsel present on his behalf. Ms. Hicks stated Mr. Sepich's registration as a security salesperson was summarily suspended based on a pending Class A misdemeanor charge for driving while intoxicated BAC ≥ 0.15 .

Chairwoman James stated that this is still a pending case, to which Ms. Hicks answered yes. Board member Hayden asked if this case were to occur after September 1, 2019, in light of upcoming changes, would Mr. Sepich be required to be licensed. Ms. Hicks stated that he likely would not. Board member Hayden stated that if the board denies him now all Mr. Sepich would have to do is wait until September 1st to begin selling. Chairwoman James stated that the board needed to rule as if no changes were coming.

Board member Siems made a motion to reverse the ALJ's decision and summarily suspend Mr. Sepich's registration as a security salesperson, based on the fact that this case is still pending. Secretary Ulmer seconded the motion. The motion passed with James, Siems, Trevino, and Ulmer voting for, while Hayden voted against.

Royce Ellison - Docket No. 405-19-2750:

Mr. Ellison was not present to address the board on this matter, nor did he have counsel present on his behalf. Ms. Hicks stated Mr. Ellison's registration as a non-commissioned security officer was summarily suspended based on a pending Class A misdemeanor charge for assault causing bodily injury.

Vice chairman Trevino made a motion to affirm the ALJ's decision and summarily suspend Mr. Ellison's registration as a non-commissioned security officer. Board member Hayden seconded the motion. The motion passed unanimously.

Eddie Lanier - Docket No. 405-19-1310:

Mr. Lanier was not present to address the board on this matter, nor did he have counsel present on his behalf. Ms. Hicks stated Mr. Lanier's application for renewal of his registration as a non-commissioned security officer was summarily denied based on his 1976 second degree felony rape conviction. The conviction was set aside, however it is still considered a conviction under the Private Security Act.

Chairwoman James asked how long Mr. Lanier had been licensed before denying his renewal. Ms. Hicks stated he had been licensed for 8 years. Board member Siems pointed out that Mr. Lanier has been renewed four times before this had become an issue. Secretary Ulmer asked why he was not there before the board, to which Ms. Hicks stated he is sick and undergoing cancer treatments. Chairwoman James stated he sent along a letter from his employer.

Vice-chairman Trevino made a motion to uphold the ALJ's decision and grant Mr. Lanier's application for registration as a non-commissioned security officer. Chairwoman James seconded the motion. The motion passed with James, Siems, and Trevino voting in favor, while Hayden voted against and Ulmer abstained.

Attorney for the Department, Cynthia Marple, presented the following cases to the board.

Sherrie Carolyn Lopez - Docket No. 405-19-2500:

Ms. Lopez was not present to address the board on this matter, nor did she have counsel present on her behalf. Ms. Marple stated Ms. Lopez's renewal application for registration as a non-commissioned security officer was summarily denied based on her August 18, 2017 misdemeanor conviction for Driving While Intoxicated 2nd.

Vice-chairman Trevino made a motion to affirm the ALJ's decision and summarily deny Ms. Lopez's application for registration as a non-commissioned security officer. Hayden seconded the motion. The motion passed unanimously.

Izaak Savell - Docket No. 405-19-3490:

Mr. Savell was not present to address the board on this matter, nor did he have counsel present on his behalf. Ms. Marple stated Mr. Savell's application for registration as an electronic access control device installer was summarily denied based on his August 1, 2018 class A misdemeanor conviction for DWI 2nd.

Board member Siems made a motion to affirm the ALJ's decision and grant Mr. Savell's application for registration as an electronic access control device installer. There was no second and the motion was withdrawn.

Vice-chairman Trevino asked when Mr. Savell would again be eligible, to which Ms. Marple answered 2022. Chairwoman James asked how many years passed between DWIs. Board member Siems stated that his second DWI was when he was 23 years old. Secretary Ulmer asked if he were current on all fees and restitution. Ms. Marple answered that he was and the ALJ was impressed that he had done all that was required.

Board member Hayden made a motion to affirm the ALJ's decision and grant Mr. Savell's application for registration as an electronic access control device installer. Board member Siems seconded the motion. The motion passed unanimously.

Agenda Item X: Adjournment

Chairwoman James introduced this agenda item. Board member Hayden made a motion for adjournment. Board member Siems seconded the motion, and the Board voted unanimously in favor of the motion. At 11:06 am, the 4th quarter meeting of the Private Security Board was adjourned.