

TPSB Liaison

TPSB Committee Chairman

By: John Kahn, CPP, TLSC, TLPI

Texas Private Security Board – Abridged Meeting Minutes – October 29, 2010

Posted: July 29, 2010: Agenda Approval of Minutes

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Agenda Item I: Approval of Minutes for Board Meeting from July 9, 2010

Chairman Chism introduced this agenda item. On a motion made by Secretary Smith and seconded by Board member Crenshaw, the Board voted unanimously to approve the Minutes for the Board meeting of July 9, 2010 as written.

Agenda Item II: Report from Private Security Bureau

Reggie Andrews presented the Licensing totals for the 3rd Quarter, 6/1/10-8/31/10. Stated was for the time period – TPSB received:

- 283 - original company applications
- 1,331 - company renewals
- 10,608 - original individual applications
- 9,019 - individual renewals not including online applications

Andrews continued, for the same period TPSB processed the following licenses/registrations:

- 184 - original company licenses (85 online, 99 manual)
- 1,332 - company renewals (829 online, 503 manual)
- 9,790 - individual registrations (2,407 online, 7,383 manual)
- 8,439 - individual renewals (3,329 online, 5,110 manual)
- 4,633 - employee information updates (789 online, 3,844 manual)
- 5,771 - active company licenses
- 241 - active school licenses
- 124,923 - active individual registrants

Sherrie Zgabay addressed the Board:

An update on security at the 2011 Super Bowl being held in Arlington in February 2011. She stated that some members of the Private Security industry will remember the volume of work involved in Texas hosting the Super Bowl from the 2005 event. To read more of her remarks, and the Bureau's discussion, the details pertaining to *The Super Bowl- February 2011*, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

Lieutenant Park addressed the Board – District A:

- 378 - violations investigated for the third quarter, 6/1/10-8/31/10
- 4 - cases of operating with an expired license
- 1 - case of operating with a suspended license
- 25 - cases of operating without a license, and 10 cases of failure to register employees.
- 4 - cases presented to prosecutors during this time period.

Lieutenant Hunt addressed the Board – District B:

- 604 - violations investigated for the third quarter, 6/1/10-8/31/10
- 6 - cases of operating with an expired license
- 1 - case of operating with a suspended license
- 30 - cases of operating without a license
- 21 - cases of failure to register employees
- 28 - cases presented to prosecutors during this time period

Chairman Chism asked if the Bureau got involved in the investigation going on with the Fort Ben Sherriff's Office. Lieutenant Hunt stated: "They were made aware of the investigation and made contact to offer their help, but have not been taken up on that offer. Chairman Chism asked if an arrest had been made in that case, to which Lieutenant Hunt stated he did not have that information."

Steve Moninger addressed the Board:

Currently, there are no rules pending for publication or before the Public Safety Commission regarding private security. There were (3) - three rules to go before the PSC. They were pulled-down and would be discussed at the current meeting. The pending amendment to Rule §35.46, adding Class A misdemeanor assaults to the list of "related offenses," is being held; and, will be brought before the PSC at such time as there are more rule changes to be made pending the outcome of the current meeting.

Wayne Mueller addressed the Board:

Identified the *Private Security Bureau to the Regulatory Licensing Division*. There was an Update forthcoming for the Board pertaining to what is meant by *Regulatory Services Division*: "a broader scope of the vast changes within the agency, not only to private security, but other regulated services." He stated that back in April 2009 he took over as Assistant Chief for Valerie Fulmer and stated there was a plan in place to make significant changes within the agency to restructure the regulatory programs. He went on to say that he assured the Board at that time that they would not be losing a Bureau so much as gaining an entire Division, and he was happy to show the Board this had indeed come to fruition. He began his slide show presentation by showing the **5 - Regulated Bureaus** that became the *Regulatory Services Division*: (1.) Concealed Handgun Licensing, (2.) Private Security, (3.) Narcotics Registration and Regulation, (4.) Metals Registration, and (5.) Vehicle Inspection Services; and that they fall into (3) - three services: (A.) Licensing and Registration, (B.) Compliance and Enforcement, and (C.) Operations and Shared Services. There is a large discussion recorded for this specific Board Session's Topic – Regulatory Licensing Division, for more information, go to: **More Online: <http://www.txdps.state.tx.us/psb/>**

Agenda Item III: Report from Private Security Board's Advisory Committee

Secretary Mark Smith addressed the Board, referring to topics the Committee was charged with for discussion & developing. He stated the Committee would address the board on each topic as it appeared in the *Agenda Items: V, VII, and IX*.

One specific topic: *To classify the Resident Alien Cards*. He stated the cards he had seen stated permanent resident card. Government changes usually pertain to its terminology. Committee and Board Attorney, Steve Moninger decided to come-up with a generic term to use when referring to this type of card. Mr. Moninger stated that the issue of which term to use would also be addressed at each agenda item.

Agenda Item IV: Discussion: Texas Attorney General’s Opinion – GA-800, relates to Repossession Services and Private Security.

Steve Moninger addressed the Board regarding the recent Texas Attorney General’s Opinion. He began by stating the Board requested an Attorney General opinion regarding the scope of exception for repossession agents as stated in 1702.324. For more information, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

Agenda Item V: Discussion & Possible Action relating to: Proposed Amendment to Rule §35.142, “Application for a Security Officer Commission”; Repealing reference to obsolete “Level 1: Course”; Allowing for electronic fingerprint submission; updating requirements for non-citizens and non-Texas residents; Allowing for use of Drivers’ License photos upon development of Department interface.

Steve Moninger presented this rule to the Board. Mr. Moninger stated that the original thought was to only take out the reference to Level I, as stated in the rule, but as the committee and staff began looking at this rule, it was decided modifications were needed relating to drivers licenses and ID cards for out-of-state residents who are licensed. Stated the federal issue on Part 6 – Rule to ensure qualification to possess a hunting license or any other license under federal law. For more information, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

Agenda Item VI: Discussion & Possible Action relating to: Proposed Amendments to Rule §35.186, “Registration Applications”; Addressing the acceptance of electronic fingerprints and striking the reference to Level I certificates (which are no longer required); Updating the requirements for non-citizens and non-Texas residents, and requiring the applicants provide court documents when requested.

Steve Moninger presented this rule to the Board. He stated the *issues* were similar to the previous rule discussed, however, with the exception there is no reference to the *federal firearms law* and *Section 5* was added to provide court documents upon request of the Department. He stated this was already stated in the *Statute 1702.282*, but this further articulates the rules. On a motion made by Secretary Smith and seconded by Board member Washington, the Board voted unanimously to accept the amendments to this rule as written. For more information, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

Agenda Item VII: Discussion & Possible Action relating to: Proposed Rule §35.187, “Renewal Applications”; Clarifying the Board’s interpretation of the statutory requirements relating to renewal applications, including the effect of the one-year grace period for submission of a renewal application following expiration, the prohibition against performing regulated services during such period, and the requirement of fingerprints submission at renewal.

Steve Moninger presented this rule to the Board. He stated this was a new rule drafted to articulate existing policy as well as provide new policy. He stated Section 4 was the area should be considered most by the Board. This Section’s Focus: to have clean-up the PSB database. For more information, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

Agenda Item VIII: Discussion & Possible Action relating to: Proposed Amendments Rule §35.292, “Requirements for Continuing Education Courses”; Striking reference to specific fee amount for annual license fee assessed to continuing education school, in response to previously adopted changes to Rule §35.70 on “Fees”.

Steve Moninger presented this item to the Board. He stated this rule was before the Board previously, but the fee needed to be modified to reflect the same fee already adopted in the Fee Rule §35.70. He further stated that to make Rule §35.292 less confusing the reference to fees was taken out of this rule. This is an in depth section of the Board Meeting, for more information, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

Agenda Item IX: Discussion & Possible Action relating to: Proposed Rule §35.211, referring to substitution of locksmith training course completion for experience requirements, pursuant to §1702.105 (Occ. Code).

Steve Moninger presented this item to the Board. He described he had been asked to prepare- in rule format – the recommendations of the advisory committee regarding the training requirements for locksmith companies. He added this began with the idea that the locksmith industry should have similar substitutions for experience requirements as currently are for investigators, so he patterned this rule after that. However, he stated, subsection (2) of this rule was legally problematic as it refers to specific private associations and therefore delegate authority to them rather than the Board. For more information, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

Agenda Item X: Discussion & Possible Action relating to: Pocket Card requirements for those individuals who perform alarm or lock work in detention centers and hotels.

Chuck Foreman presented this item to the Board for discussion. Mr. Foreman stated he wished to see pocket cards issued and used by everyone working on detention centers whether private, city, state or federal. He stated he has had experience working with other companies, being project manager in these facilities. Unfortunately, he stated, the interaction between the inmates and trustees is a safety issue that needs to be addressed. For more information, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

Agenda Item XI: Public Comment: Discussion & Possible Action relating to:

Bob Burt, President of ASSIST addressed the Board. He referred to his concern relating to Rule 35.187 – Section (b).

His *first comment* referred to *an individual whose pocket card* has expired be treated as a new hire would be. In doing the new hire paperwork, he indicated the company has 5-five days to submit the paperwork; still, allow the individual to work during this period. He stated he hoped it was the same for an employee who is renewing their license and they be allowed to work while going through the paperwork process. His *second comment* referred to *electronic fingerprinting*. He stated they were in favor of electronic fingerprinting, but indicated it should not be relied upon as the sole way of fingerprinting, especially in the rural areas, where it can take days to schedule an appointment to have them done. For more information, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

**Bonnie Brown Morse –
President of The Locksmith Association of San Antonio, TX, addressed the Board.**

Her first comment referred to thanking Deputy Assistant Director Wayne Mueller for his overview of the changes to the division. She added one concern was with the increase of personnel and the cross-training involved. The staff may not be as well trained in the differences between the five areas. She, too, had concerns regarding the electronic fingerprinting. She stated that while she understands the desire and need to go paperless, it is unrealistic. For more information, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

Susan Griswold – Representing ASSIST: Addressed the Board. She stated that her concern was with the Board passing the amendments to Rule §35.186 (3).

Her *first comment* referred to language of “Level I” was stricken from the rule, but on the application includes alarm installers and registrants who are required to submit the Level I certificate. She suggested that the language be changed to: “Level I and/or Level II” in order to comply with both the alarm and guard sides of the industry. Her *second issue* was concerning *continuing education*. She stated in Fiscal 2008, ASSIST went to the Board; and asked the *continuing education training* for their officers be approved. For more information, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

**Agenda Item X: Administrative Hearings on Licensing and Disciplinary Contested Cases
Sarah Carnes-Lemp presented the Hearing cases to the Board.**

Terry Pollard- Docket No. 005832010:

Mr. Pollard was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. Carnes-Lemp stated Mr. Pollard’s application for licensure as a non-commissioned security guard was denied, based on a Class A misdemeanor conviction for Mob Action. Secretary Smith made a motion to uphold SOAH’s decision to deny Mr. Pollard’s application as a non-commissioned security guard. For background relevant information of the case, for more information, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

Mark Ugarte- Docket No. 007592010:

Mr. Ugarte was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. Carnes-Lemp stated Mr. Ugarte’s application for registration as an alarm systems installer was denied, based on his conviction for the Class A misdemeanor offense of Assault Causes Bodily Injury – Married. Following a hearing on the merits, SOAH found that the Department has the legal authority to deny the application. However, recommended, it exercise its discretion in granting the registration. Board member Crenshaw made a motion to deny Mr. Ugarte’s registration as an alarm systems installer. For background relevant information of the case, for more information, go to: **More Online:** <http://www.txdps.state.tx.us/psb/>

Ricardo Munoz- Docket No. 00322010:

Mr. Munoz was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. Carnes-Lemp stated Mr. Munoz’s application for registration as an alarm salesperson was denied, based on the following convictions: 1) Felony Escape, and [2] Class A Misdemeanor Failure to *Identify Fugitive Intent to Give False Information*. Following (2)- two separate hearings at which Mr. Munoz failed to appear, SOAH granted the motion for default and found Mr. Munoz’s application should be denied, based on his prohibitive criminal history. Board Member Washington made a motion to uphold SOAH’s decision.

Dave Armstrong- Docket No. 005842010:

Mr. Armstrong was not present to address the Board on this case, nor did he have counsel present on his behalf. Ms. Carnes-Lemp stated Mr. Armstrong's security officer commission was revoked based on his conviction of *Aggravated Assault and Battery*. Following a hearing at which Mr. Armstrong failed to appear, SOAH granted the motion for default, and found Mr. Armstrong is *federally disqualified from possessing a firearm*. Therefore, Armstrong was not eligible for the commission. The Department is authorized to revoke the commission. Secretary Smith made a motion to revoke Mr. Armstrong's license as a Commissioned Security Guard.

Agenda Item XI: Executive Session (consultation with attorney) as authorized under §551.071, if necessary. The Board did not take Executive Session at this time.

Agenda Item XI: Adjournment

Chairman Chism introduced and Secretary Smith made a motion for adjournment. At 11:40 am, the October 29, 2010 meeting of the Private Security Board was adjourned.