

From: [Sunset Advisory Commission](#)
To: [Trisha Linebarger](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
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From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]
Sent: Tuesday, May 22, 2018 12:34 PM
To: Sunset Advisory Commission <Sunset@sunset.texas.gov>
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: DEPARTMENT PUBLIC SAFETY DPS

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Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

The Texas Burglar & Fire Alarm Association (TBFAA) appreciates the Sunset Commission's hard work and dedication as you receive public input on the important issues raised in the Sunset Staff Report on the Texas Department of Public Safety (DPS).

TBFAA supports the Commission Staff's conceptual goals of reducing inefficiencies and overregulation of the private security industry, and we offer our thoughts on the best specific pathways for the state to achieve those goals. In that vein, there are certain aspects of the Commission Staff recommendations with which TBFAA is in full agreement.

- We agree that there is no need to require registrations for owners and shareholders who do not directly provide security services to the public. But we feel that it is appropriate to retain current law to register owners or shareholders who visit a home/business or perform monitoring, sales, installation or service, because they gain access to sensitive information including locations of valuables and routines.
- TBFAA agrees with the need to eliminate the licensure requirement for telematics companies.
- We applaud the Commission staff's call for more effective use of technology and greater transparency in regulatory operations. We agree that "information, like the number of licenses probated, suspended, and revoked for each program, is not available, and as a whole, the lack of publicly available information significantly reduces the transparency of DPS' regulatory operations."
- We also support the Commission staff observation that "Agencies should have a clear process for determining if a licensee needs to be inspected, rather than meeting arbitrary quotas, and identify what risk factors to consider for

conducting an inspection, such as recent complaints, past violations or disciplinary actions, or significant changes in business management. Clear, risk-based inspection policies also keep regulated individuals on notice of the agency's expectations." Inspecting or auditing companies each and every year, apparently due to their proximity to the interstate or local DPS office, is an unnecessary burden on both the company and DPS.

- We also support the Commission Staff's effort to stop treating each registration held by an individual separately. Simplifying the structure to create an endorsement system is the way to go. Many individuals have multiple roles and a single registration with multiple endorsements would save time and resources for DPS and regulated companies.

The Private Security Board Should Retain its Authority

TBFAA strongly opposes the Commission Staff recommendation to reconstitute the Private Security Board (PSB) as a mere advisory committee. TBFAA believes this would be a huge mistake from a public safety standpoint.

- The Commission Staff has identified examples of questionable enforcement action for criminal convictions that were ultimately corrected by the PSB after almost a year of litigating these cases. The Commission Staff noted that far "from being isolated incidents, DPS denied more than 1,400 private security applications for criminal history violations in fiscal year 2017."

- TBFAA agrees that the "department over-emphasizes the criminal aspects of its regulatory programs, putting resources towards achieving outcomes similar to its other law enforcement functions without sufficiently focusing on important administrative aspects of the programs."

- While we agree that the lack of clarity of jurisdiction for the PSB, DPS and the Public Safety Commission creates "dueling regulation, inefficiencies, and unnecessary risks" we disagree on the solution. The Commission has recognized the focus on law enforcement by DPS. We agree with the observation of PSB Chair James that "Based on the published, limited biographies of the five-member Public Safety Commission, none of them have experience in the business of investigations or security." Removing the authority of the subject matter experts at the PSB would only reinforce the law enforcement focus in DPS.

- Requiring approval of rules by PSB, DPS and the Public Safety Commission can add significant delay. The solution is to give the PSB authority over the rules and enforcement actions. DPS should be allowed to carry out investigations and prosecutions of cases without the need to consider subjective elements of the cases. The PSB should be a first line of adjudication of contested cases. This would allow the Public Safety Commission to focus its expertise on law enforcement and reduce the workload on the SOAH.

- The PSB has provided appropriate oversight over the regulatory process since it was established in 1969, there is no reason to discontinue this effective tradition.

Any Alternative or New Recommendations on This Agency:

One Criterion for Background Checks Does Not Fit All DPS Programs

We support the creation of consistent criterion for background review for private security applicants. In a perfect world, a single criteria for applying mitigating factors to criminal history evaluations for all DPS programs would make sense. In reality, a higher standard is appropriate for private security applicants. Texas citizens expect that private security registrants have not committed burglaries, robberies or assaults. Greater leniency may be appropriate for other DPS programs. We agree with DPS that "Ensuring that the public is not put at risk by security personnel with disqualifying criminal records is central"

Private Security Salespersons Require Background Checks

Private Security Salespersons, who visit the customers business or home, gain access to the design of systems and to information on vulnerabilities of the citizens they give estimates to. Continued protection of Texas citizens requires that criminals are prevented from providing these services.

Privately conducted background checks are not as extensive as those conducted by DPS. While TBFAA supports easing the burden of regulation on these professionals including reducing or eliminating training requirements, full deregulation is not appropriate. TBFAA can support deregulation of sales that are performed over the phone or over the counter, if the salesperson does not visit the home or business.

Affiliation with Licensed Companies Should Remain a Requirement

Requiring private security professionals to be affiliated with a licensed company provides a public safety benefit. In 2017, the Commission reports

137,699 individuals were licensed under 9,209 companies. Allowing the 137,699 to freelance directly to the public or between several companies would create an enforcement nightmare for DPS. Currently, DPS relies on the qualified manager at each company to enforce the rules and regulations. Eliminating this requirement would remove this critical link in the regulatory process.

It would also increase costs to the consumer, because these independent agents would all need to incur insurance costs now absorbed by the companies.

Consumers would have no assurance that their providers know the law or rules, have a physical address, are not employing unregistered individuals, or are not engaging in a multitude of activities and omissions that are highly detrimental to the public welfare.

Retaining Requirements for Managers is Key

Requiring that each company have a manager who has passed an exam and has appropriate experience helps to protect Texas citizens. Having an experienced manager who knows the law and rules and is held accountable promotes compliance with the law. Eliminating these key allies with DPS to encourage compliance, would increase the demand on DPS and reduce compliance with the law, putting Texas citizens at risk.

We Stand Ready to Help

TBFAA hopes to continue to have a constructive dialogue with the Sunset Advisory Commission members, Sunset Staff, and DPS about the best path forward. We thank you for your continued service to the Great State of Texas.

My Comment Will Be Made Public: I agree