



**Texas
Sunset
Advisory
Commission**

STAFF EVALUATION

***Texas Board of Private Investigators
and Private Security Agencies***

**A Staff Report
to the
Sunset Advisory Commission**

1986

**TEXAS BOARD OF PRIVATE INVESTIGATORS
AND PRIVATE SECURITY AGENCIES**

October 1986

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SUMMARY OF STAFF REPORT

The Texas Board of Private Investigators and Private Security Agencies is responsible for the protection of the public through the regulation of the private investigations and the private security industry in the State of Texas. The board is governed by an eight-member board consisting of six members appointed by the governor and two ex-officio members, the director of the Department of Public Safety and the attorney general or their designated representatives. The board is headquartered in Austin, Texas and has six regional offices across the state in fiscal year 1986. The agency employed 45 persons and was funded by \$1,519,328 out of the general revenue fund.

The major responsibilities of the board are the licensing of private investigation companies, security guard companies, burglar alarm companies, courier companies, armored car companies and guard dog companies. In fiscal year 1985, 3,806 company license applications were processed.

In addition to licensing companies, the board also registers individual private investigators, unarmed guards, alarm installers and security consultants, as well as owners, officers, partners, shareholders and managers. The board processed 48,760 registrations in fiscal year 1985.

Legislation was enacted in 1975 which gave the board the responsibility of commissioning security officers who carry firearms while performing their duties. A security officer commission is issued to a person who has successfully completed the board's 30-hour training program and who meets other qualifications of the Act and board's rules. A security officer commission entitles the security officers to carry a firearm only when in uniform, on duty or going to and from his place of duty. In fiscal year 1985, there were 21,335 security officer commission applications received.

The need for each of these programs was analyzed and the review indicated a continuing need for state involvement in these areas. The board is fulfilling the purposes for which these programs were created, and should be continued for a 12 year period. If the board is continued a number of changes should be made to improve the efficiency and effectiveness of its operations. These changes are summarized as follows:

RECOMMENDATIONS

THE AGENCY SHOULD BE CONTINUED FOR A 12-YEAR PERIOD WITH THE FOLLOWING CHANGES:

POLICY-MAKING STRUCTURE

Method of Selecting the Agency Chairperson Should be Changed.

1. The statute should be amended to require that the governor select the chairman of the agency's board. (p. 19)

The governor's selection of the chair encourages and helps ensure continuity of policy from the state's chief executive office down to the various agencies which serve the citizens of the state.

OVERALL ADMINISTRATION

Administrative Costs Should be Clearly Identified.

2. Costs of computer operations should be pro-rated on usage by the three activities and the hearings officers, two secretaries and related expenses transferred to the hearings division. (Non-statutory management improvement) (p. 21)

Actual costs of the administrative division can be lowered by pro-rating computer costs and removing the hearings officer, staff and related expenses to the hearings division.

EVALUATION OF PROGRAMS

Licensing

Current Regulation of Non-Commissioned Security Officers Does Not Provide Adequate Protection.

3. The board should be given authority to regulate all non-commissioned security officers. (Statutory) (p. 23)

Requiring a background check of all non-commissioned officers is necessary to ensure the public safety. Currently, only non-commissioned officers employed by licensed companies are required to register. Security officers hired as company employees do not have to be registered and therefore cannot be checked for prior criminal histories. This provision would go into effect September 1, 1988 so that

the DPS can hire and train additional fingerprint experts to handle the additional workload.

Non-Commissioned Security Officers Employed by Political Subdivisions Should Be Registered and Required to Pay.

4. All non-commissioned security officers employed by political subdivisions should be registered by the board and be required to pay registration and renewal fees. (Statutory) (p. 24)

The public would be better protected if non-commissioned security officers employed by political subdivisions were required to be registered by the board so that a background check could be made. These officers should not be exempt from paying the board's registration and renewal fees. The general revenue fund would be increased by \$75,000 annually by this provision. This provision would go into effect September 1, 1988 so that DPS can hire and train additional fingerprint experts to handle the additional workload.

Burglar Alarm Monitoring Companies Need to be Licensed.

5. Burglar alarm monitoring companies should have a Texas office and be licensed by the Board of Private Investigators and Private Security Agencies. (Statutory) (p. 25)

By having all monitoring companies under the jurisdiction of the board, the public could be assured that these companies would have a Texas manager, have insurance, and be responsible for certain standards of conduct.

Security Dog Trainers Need to be Licensed.

6. Security dog trainers need to be licensed by the board so that a background check can be made. (Statutory) (p. 26)

Requiring the board to regulate security dog trainers would ensure that the public would not be injured by an improperly trained dog. In addition, regulating trainers of dope dogs, who routinely handle narcotics in the training process, would help to prevent the illegal use or sale of these narcotics. Security dog trainers would pay a \$15 registration fee and a \$15 renewal fee which will bring approximately \$3,000 a year into the state treasury and would cover the cost of regulation.

Background Check Prior to Employment

7. All licensed security personnel should have a fingerprint check prior to employment. (Statutory) (p. 26)

The public would be better protected if all security personnel were required to have a fingerprint check prior to employment beginning September 1, 1988.

Sufficient fingerprint experts must be hired and trained by the DPS to lessen the time it takes to classify and check fingerprints.

All Persons Registered by the Board Required to Pay

- 8. Commissioned security officers employed by political subdivisions should be required to pay registration and renewal fees. (Statutory) (p. 27)**

Commissioned security officers employed by political subdivisions should pay the cost of regulation. General revenue would be increased \$7,500 annually if this group of commissioned security officers were required to pay registration and renewal fees.

- 9. Owners, officers, partners, and major stockholders of over 25 percent stock in security firms should be charged registration and renewal fees to cover the cost of regulation. (Statutory) (p. 28)**

This would ensure that all groups regulated by the board would pay the cost of regulation. A registration fee of \$15 and renewal fee of \$15 would cover these costs. This would bring in approximately \$33,000 a year to the state treasury.

Current Insurance Coverage Requirements for Licensed Companies is Inappropriate.

- 10. Statute should be changed setting limits of liability to not less than \$100,000 bodily injury and property damage for each occurrence, and \$50,000 personal injury per person or organization and not less than \$200,000 total aggregate. (Statutory) (p. 28)**

The Insurance Commission is changing its policy on general liability insurance in Texas beginning April 1, 1987 by going to what is known as single limit insurance. This will make the current liability coverage of \$50,000 bodily injury, \$25,000 property damage and \$50,000 personal injury obsolete. Going to \$100,000 single limits, which combines bodily injury and property damage, along with \$50,000 personal injury coverage, will make it possible for more insurance companies to bid on coverage.

- 11. The statute should require that applicants for a company license show their insurance coverage on certificate of insurance forms prescribed by the board. (Statutory) (p. 29)**

Using the certificate of insurance forms issued by the board would help to ensure that the board would be informed of the amount of liability of insurance carried by a company and if any group of employees were excluded from the policy. The

agency could then take corrective steps to ensure that all parties that needed coverage were covered by the policy.

Psychological Testing Provisions Are Not Needed.

- 12. Sections 20 A and 20 B concerning psychological testing should be deleted from the statute. (Statutory) (p. 30)**

The review indicated that psychological testing would be too costly for the number of commissioned security officer applicants and could subject the state to liability claims, if job applicants who were refused employment because of the results of the exams.

Better Coverage is Needed for Manager Exams.

- 13. Managers Examinations should be given in areas other than Austin. (Non-statutory management improvement) (p. 30)**

Persons wanting to take managers examinations would have the option of paying a small fee to take the exam locally or paying travel and expenses by coming to Austin. The exam would be sent to Austin for grading after which the results would be made known to the applicants.

Unused Provisions Should be Deleted from Statute.

- 14. The license termination fee of \$10 should be deleted. (Statutory) (p. 30)**

This fee should be deleted from the statute because it is impossible to collect.

AGENCY EVALUATION

The review of the current operations of an agency is based on several criteria contained in the Sunset Act. The analysis made under these criteria is intended to give answers to the following basic questions:

1. Does the policy-making structure of the agency fairly reflect the interests served by the agency?
 2. Does the agency operate efficiently?
 3. Has the agency been effective in meeting its statutory requirements?
 4. Do the agency's programs overlap or duplicate programs of other agencies to a degree that presents serious problems?
 5. Is the agency carrying out only those programs authorized by the legislature?
 6. If the agency is abolished, could the state reasonably expect federal intervention or a substantial loss of federal funds?
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AGENCY BACKGROUND

Creation and Powers

The Texas Board of Private Investigation and Private Security Agencies was established by the 61th Legislature in 1969 as Article 4413 (29bb),V.A.C.S. The agency is currently active and is managed and controlled by an eight-member board consisting of six members appointed by the governor for six-year overlapping terms and two ex-officio members, the director of the Department of Public Safety and the attorney general or their designated representatives. As identified in the agency's mission statement, the agency is responsible for the protection of the public through the regulation of the private investigations and private security industry in Texas.

The 61st Legislature addressed the need for a comprehensive and uniform approach to the regulation of private security activities through the creation of the Board of Private Detectives, Private Investigators, Private Patrolmen and Private Guard Watchmen in 1969. The agency's name was changed to the Board of Private Investigators and Private Security Agencies in 1971. This Act made it unlawful for any person or firm to offer security services without being licensed by the board or exempted by the Act. The intent of the licensing law was to establish firm control over the manner in which security services are offered, the person authorized to engage in the business, and the financial integrity of security service providers. This intent was addressed through statutory provisions which: 1) imposed an organizational framework upon the industry by requiring the licensure of companies according to the scope of services offered and conditioned upon the qualifications of management personnel for each service offered; 2) restricted entry into the field of persons with unfavorable criminal histories; and 3) required surety bond and insurance coverage for licensees so that compensation for recoverable damages would be available.

The original scope of the board's authority was significantly altered in 1971, 1975 and again in 1983. Regulation of private security was expanded by the 62nd Legislature to include armored car, courier, guard dog and alarm companies. The inclusion of these services within the scope of the Act was in an effort to regulate all aspects of the security industry.

The 64th Legislature in 1975, authorized the board to issue hand gun commissions to qualified security officers and remove the local authority to grant commissions. This change was in response to the lack of control and uniformity

which resulted from the various local practices governing the issuance of hand gun permits. The agency was given the additional responsibility to establish a training program and to develop a commissioned security office manual to be used in the instruction and training of commissioned security officers. The agency also had to approve training instructors and training schools.

The statute was changed by the 68th Legislature in 1983 to include the word firearm instead of handgun so that a security officer must obtain a commission and complete the required training in order to carry a shotgun or rifle while on duty. The agency was also given the responsibility to register non-commissioned security officers, alarm systems installers, and private security consultants.

Board Structure

The eight-member board directing the agency is composed of three industry representatives, two public members, one local law enforcement representative, and two ex-officio members (the attorney general and the director of the Department of Public Safety or their representatives). With the exception of the ex-officio members, all members are appointed to overlapping six-year terms by the governor with the advise and consent of the senate.

The board carries out the general policy making duties which include: determining the qualifications of licensees; investigating violations of the Act along with board rules; promulgating rules and regulations; and establishing standards of conduct for persons licensed, registered, and commissioned by the Act.

The board has the following powers and duties: 1) to determine the qualifications of licensees, registrants, and commissioned security officers as provided in the Act; 2) to investigate alleged violations of the provisions of the Act and of any rules and regulations adopted by the board; 3) to promulgate all rules and regulations necessary in carrying out the provisions of the Act; and 4) to establish and enforce standards governing the safety and conduct of person licensed, registered, and commissioned under the provisions of the act.

Organization and Funding

The legislature, through the enactment of the Private Investigators and Private Securities Act, mandated the Board of Private Investigators and Private Security Agencies to regulate all persons who engage in the business of, or offer services as, private investigation companies or security service contractors. Guard, alarm systems, armored car, courier and guard dog companies comprise the business entities statutorily subject to regulation as security service contractors.

Businesses not subject to regulation under the act include major credit collectors, attorneys-at-law, insurance adjusters, resposessors of property, locksmiths, persons who own or install burglar alarms on their own property, employees of cattle associations, common carriers engaged in interstate commerce, professional engineers, and salesmen of over-the-counter burglar alarms.

Board regulation of the private investigation and security business is achieved primarily through the licensure of companies, the commissioning of armed security guards, and the registration of individual private investigators, as well as the owners, operators, partners, officers, shareholders, and managers of licensed companies. This regulatory scheme of licensure and registration is designed to ensure 1) that licensed private security and investigation companies are controlled by qualified persons and are financially able to make restitution to persons injured as a result of their services, and 2) that armed commissioned security guards are competent and qualified to carry firearms while on duty. Enforcement efforts of the agency are aimed at ensuring the continued qualifications of commissioned security officers and those persons operating investigations and security companies, licensed under the act, as well as, preventing violations of the act.

Staff for the agency consists of 45 full-time employees. The board was funded by \$1,519,328 out of the General Revenue Fund in 1986. Fees collected by the board are set by statute and deposited in the State Treasury to the credit of the General Revenue Fund. The agency returned over \$925,000 to the state in excess of their appropriation in 1986.

Programs and Functions

As with most other licensing agencies, the operations of the board can be separated into three basic activities; administration, licensing, and investigation.

Administration

The general objective of any administrative function is to provide for the effective operation of all agency activities. The administrative activity has 13 personnel who open and sort mail, log in checks, enter licensure applications in a computer terminal, do accounting and personnel functions, printing, inventory control, purchasing, telephone switchboard, and act as a liaison with the other state agencies. Agency records and reports are carefully prepared and systematically organized.

Licensing

The licensing function of the board is handled by 15 employees and ensures that security services available to the public are offered by qualified companies and individuals. The board accomplishes this by licensing security companies, registering employees of licensed companies, commissioning security officers who carry firearms during the course of their work and, approving the schools and instructors involved in the training of security officers. As provided by the Act, licenses are issued to companies, based on the nature of services offered, in the three classes listed below:

- Class A License - Investigation companies;
- Class B License - Security service contractors (including guard, armored car, burglar alarm and guard dog companies); and
- Class C License - Combined companies which offer investigations and security services.

Exhibit 1 identified the numbers of licensed companies by class of license.

Exhibit 1
Number of Licensed Companies
FY 1985

<u>Class of License</u>	<u>Number of Licensed Companies</u>
Class A	478
Class B	1,050
Class C	<u>673</u>
TOTAL	2,201

Licensing standards for the three classes are set out in statute. In addition to these standards, a company must show proof of bond and insurance coverage in amounts specified by statute, also the manager of the company must meet certain statutory requirements.

According to these requirements, an applicant must 1) not have been convicted of a felony or any crime involving moral turpitude; 2) obtain a letter of approval from the local police and sheriff; 3) have at least two years experience for a Class A license, three years for a Class B or C license; and 4) successfully complete an examination administered by the board. The examination administered by the board tests the applicants familiarity with the Act and board rules. Exhibit 2 presents examination pass/fail rates for fiscal year 1982-1986.

Exhibit 2
Licensing Examination Pass/Fail
Rates, Fiscal Years 1982-1986

<u>Year</u>	<u>Number Examined</u>	<u>Number Passed</u>	<u>Percent Passed</u>	<u>Number Failed</u>	<u>Percent Failed</u>
1982	503	396	79%	107	21%
1983	611	412	67%	199	33%
1984	592	442	75%	150	25%
1985	890	692	78%	198	22%
1986	<u>692</u>	<u>486</u>	<u>70%</u>	<u>206</u>	<u>30%</u>
TOTAL	<u>3,288</u>	<u>2,428</u>	<u>74%</u>	<u>860</u>	<u>26%</u>

The board is also directed by statute to collect certain fees associated with licensing services provided. Fees charged to licensees are set by the board but are limited by statute. In 1985, the board collected \$2,139,294 in fees, which went to the general revenue fund. In addition, the board may charge a fee each time an applicant has to resubmit fingerprints if they were not classifiable.

The second licensing activity involves the registration of certain employees of licensed companies. The Act requires that any person employed as a private investigator, manager, or branch office manager be registered by the board. Additionally, an individual with a 25 percent or greater financial interest in the company also must be registered. Registration under the Act requires that an applicant obtain a letter of approval from the local police department and sheriff's office, and that the applicant not have been convicted of any felony or crime involving moral turpitude. Exhibit 3 indicates the number of registrants by type.

Exhibit 3
Number of Registrants by Type
Fiscal Year 1985

<u>Type of Registrations</u>	<u>Number of Registrants</u>
Owners, Officers, Partners, & Shareholders	2,183
Private Investigators	2,525
Managers, Branch Managers, & Supervisors	<u>374</u>
TOTAL	<u>5,082</u>

The agency also issues firearm commissions to qualified security officers. Provisions of the penal code and the board's Act prohibit a security officer from carrying a firearm unless commissioned by the board. Requirements for obtaining a firearm commission provided that an applicant not have been convicted of a felony or crime involving moral turpitude, receive approval from local law enforcement officials, and successfully complete a 30-hour training course approved by the board. Additionally, firearm commissions can only be issued to uniformed guards of Class B or Class C licensees and the hand gun must be worn in plain view. Board rules prohibit the wearing or carrying of simulated firearms. Private investigators are not allowed to carry a firearm. Exhibit 4 shows the number of non-commissioned and commissioned security officers licensed by the board.

Exhibit 4
Security Officers Licensed 1982-1986

	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>
Non-commissioned Officer Registrations	5,320	5,897	23,458	48,760	52,250
Commissioned Officer Registrations	<u>15,941</u>	<u>17,934</u>	<u>20,290</u>	<u>21,335</u>	<u>32,215</u>
Total Security Officers Licensed	<u>21,261</u>	<u>23,831</u>	<u>43,748</u>	<u>70,095</u>	<u>84,456</u>

The agency is also responsible for approving the schools and instructors that train security officers. A board-approved school must use the board's training curriculum as set forth in the training manual or submit its own curriculum for approval before being allowed to teach applicants seeking security officers commission. The board supplies the exams to the schools for the students to take upon completion of the 30 hour course. In 1985 there were 192 board approved training schools across the state.

Finally, the board establishes qualifications and approves instructors for security officer training programs, both for classroom instruction and firing range instruction. The board has 334 approved instructors as of August 31, 1985.

Investigation

There are 11 field investigators located in San Antonio, Fort Worth, Dallas, Houston, El Paso, and Austin. While it is the policy of the board to investigate all

complaints filed, limited personnel and resources have forced the board to establish priorities in this area. Consumer complaints have a top priority since these are complaints from actual users of a service provided by a licensed company and its employees. Also, general public complaints are high on the priority list. These are complaints from citizens regarding licensees of the board which involve possible violations of other laws such as theft, burglary, and shoplifting. The staff works in connection with law enforcement agencies across the state and receives licensee violation information from law enforcement personnel routinely. These complaints are also viewed as high priority. Over 5000 complaints were investigated in 1985.

If, upon investigation, a complaint appears to be a valid one, appropriate action is taken. When there is evidence of a criminal violation, the case is filed with the district or county attorney of the county in which the violation occurred. There were 20 criminal cases filed in 1985.

In the event that there is evidence of a civil violation, an administrative hearing is conducted by the agency. Alleged violators are allowed to settle some administrative cases by waiving a hearing and paying a fine. An administrative hearing is set by the agency in which all parties to the complaints are heard. After the hearing has been conducted the hearing officer makes his decision known to the respondent and this decision is brought before the board who make the final ruling on the case. Final decisions of the board can be appealed by filing the case in the Travis County District Clerk's office. Exhibit 5 shows the fines collected for fiscal years 1982-1986.

Exhibit 5
Fines Collected

	1982	1983	1984	1985	1986
Fines Collected and Deposited in State Treasury	\$ 32,560	\$ 45,915	\$ 84,775	\$139,640	\$314,650

In 1985, 3,752 administrative hearings were held by the board. The majority of these hearings were for violations such as failure to register employees and training violations. As a result of these hearings, 1,476 licenses, commissions, registrations, and letter of authority were suspended. In addition, 48 licenses and 37 commissions were revoked. Exhibit 6 shows the number and disposition of administrative hearings for fiscal year 1982-1986.

Exhibit 6

Administrative Hearings

	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>
New Cases Filed	358	1,005	2,102	3,752	5,561
Cases Carried Over from Previous Year	<u>18</u>	<u>45</u>	<u>59</u>	<u>358</u>	<u>1,447</u>
Active Cases	376	1,050	2,161	4,110	7,008
Cases Closed	<u>331</u>	<u>991</u>	<u>1,803</u>	<u>2,663</u>	<u>5,674</u>
Cases Carried Over to Next Year	45	59	358	1,447	1,334

Dispositions

	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>
Suspensions	164	743	992	1,476	3,357
Revocations	87	111	108	101	545
Applicants Approved	11	19	123	215	192
Applicants Denied	22	9	9	128	198
No Actions and Dismissals	43	11	561	732	1,354
Reprimands	<u>4</u>	<u>98</u>	<u>10</u>	<u>11</u>	<u>28</u>
Total Cases Closed	<u>331</u>	<u>991</u>	<u>1,803</u>	<u>2,663</u>	<u>5,674</u>

REVIEW OF OPERATIONS

Explanation of Review Focus

The relative small size of the board and the complexity of their enabling legislation dictates a need to carefully select areas for review. To determine these areas, a number of activities were undertaken:

- overview discussions with top agency staff based in Austin
- site visits to four of the six field offices
- work session and discussion with interest groups and persons knowledgeable of the agency
- review of past legislative issues and relevant evaluation studies and reports

These activities yielded an understanding of the general objectives of the agency's programs and the problems faced by the staff of the agency and the recipients for whom its services are designed. The problems identified relate to the need to register additional kinds of security personnel and to regulate all groups on a consistent basis.

POLICY-MAKING STRUCTURE

The evaluation of the policy-making structure was designed to determine if the current statutory structure contains provisions that ensure adequate executive and legislative contact over the organization of the body; proper balance of interests within the composition; effective means of selection and removal of members; and the proper use of the policy-making body's advisory committees.

Method of Selecting the Agency Chairperson Should be Changed.

The board members currently elect a chairperson from their membership whereas the governor selects the chair in many other state agencies. For example, this is done at the Board of Pardons and Paroles, the Texas Department of Mental Health and Mental Retardation, the Texas Air Control Board, and the Texas Water Commission. A review of the board's procedures and types of policy decisions did not reveal any particular need to deviate from this method of selection.

- **The statute should be amended to require that the governor select the chairman of the agency's board.**

The governor's selection of the chair encourages and helps ensure continuity of policy from the states' chief executive officer down to the various agencies which serve the citizens of the state.

OVERALL ADMINISTRATION

The evaluation of the board's overall administration was designed to determine whether the management policies and procedures, the monitoring of management practices and, the reporting requirements of the agency were adequate and appropriate for the internal management of time, personnel, and funds.

Administrative Costs Should be Pro-rated to Other Operating Activities.

The state auditor has noted that no written policy exists in this agency concerning cost allocations among divisions. The review indicated the agency calculates percentage of administrative costs by dividing the total costs of the administrative section last year by the total spent for the entire agency, amounting to 27 percent in 1985. Two factors caused percentage of administrative costs to be higher than other agencies. The total costs of agency computer costs, amounting to \$152,611 in 1985, was borne by the administrative division instead of being pro-rated among all operating divisions. Second, the salaries of the hearing officer, two secretaries, and related expenses are included in the administrative expenses, when they should be part of the hearings activity. This situation can be corrected by determining the costs of computer operations of each division and then allocating computer costs to these divisions. The hearing officer, two secretaries, and related expenses should be transferred to the hearings activity.

- **Costs of computer operations should be pro-rated on usage by the three activities and the hearing officer, two secretaries and related expenses transferred to the hearings division.**

Actual costs of the administrative division can be lowered by pro-rating computer costs and removing the hearing officer, staff and related expenses to the hearings division.

EVALUATION OF PROGRAMS

As discussed in the "Review Focus" section, the review of the agency centered on program problems whose solutions relate to the need to register additional kinds of security personnel and to regulate all groups on a consistent basis.

Current Regulation of Non-commissioned Security Officers Does Not Provide Adequate Protection.

Senate Bill 417, passed by the 68th legislature in 1983 gave the agency the responsibility to register non-commissioned security officers, alarm systems installers, and private security consultants. However, confusion in the law resulted in Attorney General's Opinion J.M. 222 which stated that non-commissioned security officers employed exclusively and regularly by one employer are exempt from registration by the board. In addition, under the federal Privacy Act of 1974 private firms are prohibited from securing conviction records of guards and applicants.

Currently there are some 50,000 non-commissioned security officers now employed exclusively by private firms for which no background check is required. Consequently, there is no means for checking the criminal backgrounds of non-commissioned officers employed by these firms. A recent survey conducted by the board over an 18-day period of time, showed 312 applicants for non-commissioned officers registrations had to be rejected because DPS criminal history files showed prior arrests. Instances are known where persons conviction of a felony are now employed as non-commissioned security guards by private business.

- **The board should be given authority to regulate all non-commissioned security officers.**

The review indicates that a background check of all non-commissioned officers is necessary to ensure the public safety. If non-commissioned guards employed by private firms were required to register, private firms would be informed as to the criminal background and any new arrests or convictions of non-commissioned security officers in their employment.

It is estimated by the board that \$996,000 in additional funding would be necessary to register non-commissioned security guards. Approxi-

mately \$332,000 would go to DPS in the form of an interagency contract for the hiring of 15 additional fingerprint experts to handle the additional workload. The balance of the funds going to the board amounting to \$664,000 would be for additional personnel and equipment to handle and process the additional group of registrants.

The board estimates that approximately \$1,275,000 in new general revenue funds would be generated through registration and renewal fees for this group of non-commissioned security officers.

It takes from six to nine months to hire and train a DPS fingerprint expert. Consequently, this provision should not go into effect until September 1, 1988 so that DPS can hire and train fingerprint experts to handle the influx of new registrants. The original intent of S.B. 417 passed in 1983 should be strengthened by specifically requiring non-commissioned security officers employed exclusively by private business be made to register with the board.

Non-commissioned Security Officers Employed by Political Subdivisions are Not Registered by the Board.

Non-commissioned security officers employed by political subdivisions are not required to be registered by the board and no background check is made on this group of 5,000 individuals. The review indicated that this group of unregistered security officers employed by political subdivisions can be a threat not only to the public but also to the political subdivision that employs them.

- **All non-commissioned security officers employed by political subdivisions should be registered by the board and be required to pay registration and renewal fees.**

All non-commissioned security officers employed by political subdivisions should be registered by the board so that a background check can be made. This group would not be exempt from paying the board's registration and renewal fees. It is estimated that the general revenue fund would be increased by \$75,000 annually through these fees. This provision would go into effect September 1, 1988 so that DPS can hire and train additional fingerprint experts to handle the additional workload.

Burglar Alarm Monitoring Companies are Currently Not Licensed.

The agency was given the authority to regulate alarm system companies in 1971 and in 1983 they were given the responsibility to register alarm system installers. Many burglar alarm companies not only sell burglar alarms but also sell a monthly alarm contract. These types of burglar alarm companies, who also monitor alarms, are under the jurisdiction of the board. However, the agency does not have the authority to regulate burglar alarms monitoring companies that do nothing except monitor clients burglar alarms and report signals to local authorities.

The review indicated that several problems exist because these burglar alarm monitoring companies are not registered. First, some burglar alarm monitoring companies are located in states other than Texas causing in some instances delays in reporting signals to the proper authorities in Texas. In addition, employees of these monitoring companies are not required to have a background check, which may allow persons with a criminal background to do the monitoring. The employee could delay reporting the alarm signals to the proper authorities thereby allowing accomplices to burglarize and escape before authorities are notified.

- **Burglar alarm monitoring companies should have a Texas office and be licensed by Board of Private Investigators and Private Security agencies.**

By having all monitoring companies under the jurisdiction of the board, one could be assured that they would have a Texas manager, have insurance, and be responsible for certain standards of conduct.

Dog Trainers are Not Licensed by the Board.

Guard dog companies have been licensed by the board since 1973. The 69th Legislature strengthened the Act by making the board responsible for the care, feeding and treatment of guard dogs. The one area the Act fails to cover is the registration of dog trainers. There are two types of dog trainers, one who trains dogs for the protection of property and one who trains dogs to sniff out and detect narcotics. The review indicated a need to regulate dog trainers because of the potential danger to the public caused by improperly trained dogs. In addition, because trainers of dope dogs routinely handle narcotics in the training of these dogs, the review indicated that regulation was needed to prevent the illegal use or sale of narcotics by the trainers.

- **Security dog trainers should be licensed by the board so that a background check can be made.**

Security dog trainers need to be under the jurisdiction of the board so that the public would not be injured by an improperly trained dog either purchased or leased by an individual or company. Security dog trainers would pay a \$15 registration fee and a \$15 renewal fee which would bring in approximately \$3,000 a year into the state treasury.

All Persons in the Security Industry are not Required to have a Fingerprint Check before Commencing Employment.

Commissioned security officers must have a fingerprinting check plus a school certificate certifying they have completed the required 30 hours of training prior to commencing employment. In accordance with statutory provisions, DPS conducts the fingerprint check and notifies the board of any changes in the criminal record status of licensees, registrants, and commissioned security officers.

However, private investigators, managers, branch office managers, alarm systems installers, non-commissioned private security officers, and private security consultants can start work while their criminal history is being checked through fingerprinting. Conducting a criminal history check prior to employment would better protect the public in that persons with a criminal history would not be employed at any time. As it now stands, a person with a criminal history can be employed until DPS records show a prior arrest. The board then notifies the applicant and the applicants employer that a prior arrest has been disclosed by the background check. Then can begin a lengthy procedure for that applicant to either clear himself of charges or be terminated from employment. In the meantime the applicant is still working in the security industry.

- **All licensed security personnel should have a fingerprint check prior to employment.**

A criminal history check prior to employment would help ensure the public would be protected. The review indicates that the DPS could check and verify fingerprint cards of all security personnel in four or five days provided they have a sufficient staff of fingerprint experts. This provision of the statute should go into effect September 1, 1988 so

that sufficient fingerprint experts could be hired and trained by DPS to lessen the time it takes to classify and check fingerprints.

Commissioned Security Officers Employed by Political Subdivisions are Currently Exempt from Paying Registration and Renewal Fees.

The review showed that commissioned security officers employed by political subdivisions are currently exempt from paying registration and renewal fees even though the board conducts background checks and issues pocket cards for these commissioned security officers in the name of the political subdivision. Approximately 500 security officers are employed by political subdivisions. The review indicated that there was no compelling reason to exempt this group from paying registration and renewal fees.

- **Commissioned security officers employed by political subdivisions should be required to pay registration and renewal fees.**

The review indicated that there is no reason why security officers employed by political subdivisions should be exempt from paying registration and renewal fees. General revenue would be increased \$7,500 annually by the payment of these fees.

Registration Fees are Not Charged to All Groups Where a Background Check is Required.

The agency's statute requires that owners, officers, partners and major share holders of over 25 percent stock in security firms to register with the board. This group of security people are required to submit a fingerprint card so that a background check can be made. The board is required to send a letter of inquiry to the police and sheriff's departments where the applicant resides, inquiring about the character of the applicant and if there is any objection to the applicant being registered by the board. When the applicant is cleared by the board they are issued a pocket card the same as other people being registered by the board.

Conducting the background check and the issuance of a pocket card is currently done free of charge by the board to the owners, officers, partners and major shareholders of over 25 percent of the stock in security firms. However, it has been the policy of the state to recoup the cost of registration from the regulated community.

The review indicates it costs the agency \$5.81 to run a fingerprint card through the DPS files. In addition it cost \$3 to send letters to the local chief of

police and sheriff's offices where the applicants resides. These figures do not include the staff time of processing the applicant by the agency. The agency estimates that total cost per applicant for conducting a background check is \$14.80.

- **Owners, officers, partners, and major shareholders of over 25 percent stock in security firms should be charged a registration and renewal fees to cover the cost of regulation.**

It is state policy to charge fees to all parties to cover the costs of services performed. A registration fee of \$15 and renewal fees of \$15 would cover these costs. This would bring in approximately \$33,000 per year to the state treasury.

Current Insurance Coverage Requirements for Licensed Companies is Inappropriate.

Currently, no company license can be issued under this Act unless the applicant files with the board a surety bond for \$10,000 along with a certificate of insurance showing public liability insurance in the amounts of \$50,000 bodily injury, \$25,000 property damage and \$50,000 personal injury. A number of licensees are having to terminate their license and business due to the fact that not enough companies want to bid on this type of liability insurance.

The Insurance Commission is changing its policy on general liability insurance in Texas beginning April 1, 1987 by going to what is known as "single limits insurance" instead of the current public liability policy that is in the board's statute.

- **Statute should be changed setting limits of liability to not less than \$100,000 bodily injury and property damage for each occurrence, and \$50,000 personal injury per person or organization and not less than \$200,000 total aggregate.**

The Insurance Commission by changing its policy and going to single limits of insurance will make it possible for more insurance companies to bid on liability coverage. Single limits, which combines the sums of bodily injury and property damage into one single amount for each occurrence will be more flexible. Personnel injury remains the same. The aggregate is the total amount of insurance the company will pay for all claims of the licensee.

Applicants for a License Should Use Certificate of Insurance Forms Prescribed by the Board in Showing Their Liability Insurance Coverage.

The law now requires that an applicant for a company license file with the board proof of a policy of public liability insurance in the form of a certificate of insurance executed by a local recording agent or a surplus lines agent, both of which must be licensed in this state. This certificate of insurance verifies that the company seeking the license has liability insurance in certain amounts.

The agency has indicated that in certain instances the insurance policy has excluded certain groups of persons from coverage, such as armed guards. This fact was not disclosed on the certificate of insurance sent to the agency.

The board currently sends out certificates of insurance forms with license application packets to the licensee to be filled out, and returned to the board. The licensee's insurance agent is not required to use these forms. The board should require the licensee to use certificate of insurance forms prescribed by the board. These forms would be written in such a way as to disclose not only the amount of liability insurance carried by the licensee but also the types of persons covered by the policy. The board would know from the certificate of insurance whether any one group was excluded from the policy.

- **The statute should require that applicants for a license show their liability insurance coverage on certificate of insurance forms prescribed by the board.**

The certificate of insurance form would tell the agency the amount of liability insurance carried and if any one group of employees were excluded from the policy. The agency could then take steps to insure that all parties that needed coverage were covered by the policy.

Psychological Testing Provision are Not Needed.

The 66th Legislature directed the board to study the feasibility of developing an examination that would test the psychological and emotional conditions of applicants for security officer commissions. The board was directed to implement this examination by January 1, 1981 if the examinations could be validated. If the examination could not be validated by this date, the legislature was directed by statute to review the applicability of this section of the statute.

The board contracted with licensed psychologists about the feasibility of developing psychological and emotional tests for commissioned security officers. They could find no tests that could be validated without incurring prohibitive costs.

In addition, psychological testing could subject the state to certain liability if the applicant was refused employment because of test results.

- **Sections 20 A and 20 B concerning psychological testing should be deleted from the statute.**

The review indicated that psychological testing would be too costly for the number of commissioned security officer applicants and could subject the state to liability claims, if job applicants who were refused employment because of the results of the exams.

Better Coverage is Needed for Manager Examinations.

Examinations are given to applicants for company manager positions to test their familiarity with the Act and on board rules. As of now, manager examinations are only given at agency's headquarters in Austin. This necessitates applicants being inconvenienced by coming to Austin. The review indicated that there is no reason why the examination could not be given in areas other than Austin. The agency indicated that various public state institutions throughout the state would be willing to proctor the exam for a small fee.

- **Manager examinations should be given in areas other than Austin.**

Persons wanting to take manager examinations would have the option of paying a small fee to take the exam locally or paying travel and expenses by coming to Austin. The exam would be sent to Austin for grading after which the results would be made known to the applicants.

Unused Provisions Should be Deleted from Statute.

The statute governing the board has a list of fees that set the limit the agency can charge. One of these fees is a license termination fee of \$10. The review indicated that security companies going out of business are not likely to pay this fee and the board has been unable to collect it.

- **The license termination fee of \$10 should be deleted.**

This fee should be deleted from the statute because it is impossible to collect.

ACROSS-THE-BOARD RECOMMENDATIONS

From its inception, the Sunset Commission identified common agency problems. These problems have been addressed through standard statutory provisions incorporated into the legislation developed for agencies undergoing sunset review. Since these provisions are routinely applied to all agencies under review, the specific language is not repeated throughout the reports. The application to particular agencies are denoted in abbreviated chart form.

**TEXAS BOARD OF PRIVATE INVESTIGATIONS AND
PRIVATE SECURITY AGENCIES**

Applied	Modified	Not Applied	Across-the-Board Recommendations
			A. GENERAL
*			1. Require public membership on boards and commissions.
*			2. Require specific provisions relating to conflicts of interest.
*			3. Provide that a person registered as a lobbyist under Article 6252-9c, V.A.C.S., may not act as general counsel to the board or serve as a member of the board.
*			4. Require that appointment to the board shall be made without regard to race, color, handicap, sex, religion, age, or national origin of the appointee.
*			5. Specify grounds for removal of a board member.
*			6. Require the board to make annual written reports to the governor, the auditor, and the legislature accounting for all receipts and disbursements made under its statute.
*			7. Require the board to establish skill-oriented career ladders.
*			8. Require a system of merit pay based on documented employee performance.
*			9. Provide that the state auditor shall audit the financial transactions of the board at least once during each biennium.
*			10. Provide for notification and information to the public concerning board activities.
*			11. Place agency funds in the Treasury to ensure legislative review of agency expenditures through the appropriation process.
*			12. Require files to be maintained on complaints.
*			13. Require that all parties to formal complaints be periodically informed in writing as to the status of the complaint.
*			14. (a) Authorize agencies to set fees. (b) Authorize agencies to set fees up to a certain limit.
X			15. Require development of an E.E.O. policy.
X			16. Require the agency to provide information on standards of conduct to board members and employees.
X			17. Provide for public testimony at agency meetings.
X			18. Require that the policy body of an agency develop and implement policies which clearly separate board and staff functions.

**Texas Board of Private Investigations and
Private Security Agencies
(Continued)**

Applied	Modified	Not Applied	Across-the-Board Recommendations
B. LICENSING			
*			1. Require standard time frames for licensees who are delinquent in renewal of licenses.
*			2. Provide for notice to a person taking an examination of the results of the exam within a reasonable time of the testing date.
*			3. Provide an analysis, on request, to individuals failing the examination.
*			4. Require licensing disqualifications to be: 1) easily determined, and 2) currently existing conditions.
		X	5. (a) Provide for licensing by endorsement rather than reciprocity.
X			(b) Provide for licensing by reciprocity rather than endorsement.
*			6. Authorize the staggered renewal of licenses.
*			7. Authorize agencies to use a full range of penalties.
*			8. Specify board hearing requirements.
*			9. Revise restrictive rules or statutes to allow advertising and competitive bidding practices which are not deceptive or misleading.
*			10. Authorize the board to adopt a system of voluntary continuing education.

*Already in statute or required.

MINOR MODIFICATIONS OF AGENCY'S STATUTE

Discussions with agency personnel concerning the agency and its related statutes indicated a need to make minor statutory changes. The changes are non-substantive in nature and are made to clarify existing language or authority, to provide consistency among various provisions, or to remove out-dated references. The following material provides a description of the needed changes and the rationale for each.

**MINOR MODIFICATIONS TO THE
TEXAS BOARD OF PRIVATE INVESTIGATIONS AND
PRIVATE SECURITY AGENCIES**

<u>Change</u>	<u>Rationale</u>
1. Delete the second Subsection 4(e) placing funds in a special Board of Private Investigations and Private Security Agencies Fund.	This Act contains two separate subsections 4(e) and 4(f) which contradict each other. Two separate bills caused passage of two subsections (e) and (f) in 1981.
2. Delete the second Subsection 4(f) placing fines collected in the General Revenue Fund.	

