



North Carolina Department of Public Safety

Private Protective Services Board

Pat McCrory, Governor
Frank L. Perry, Secretary

Gregory K. Baker, Commissioner
Barry S. Echols, Director

**MINUTES OF THE
PRIVATE PROTECTIVE SERVICES BOARD MEETING
DECEMBER 17, 2015
HOLIDAY INN NORTH
2805 HIGHWOODS BLVD
RALEIGH, NC 27604**

BOARD MEMBER PRESENT

Eric Weaver Sr.
David Arndt
Ed Cobbler
Clyde Cook
Marcus Benson
Richard Epley
William Fletcher, Jr.
William MacRae
Donald Foster
Steve Johnson
Brian Lowman
Nada Lawrimore

BOARD MEMBERS ABSENT

Bud Cesena
Dustin Greene

STAFF PRESENT

Barry Echols - Director
Phillip Stephenson - Field Services Supervisor
Jeff Gray - Attorney
Melvin Turner - Investigator
Garcia Graham - PPSB Board Secretary

GUEST PRESENT

Rory Eddings
Paul Schroll
James Salmon
Jeff Cathcarth
Donald Miller
Edward Brigham

Larry Flannery
Thomas Lewin
Ruth Cruz
Randy Rabenold
Melissa Washington
Bill Johnson

Bob Dunn
Keith Hollen
James Green
Donna Caldwell
Stuart Harris
T. Hunter Glass

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Guest Present Continued.

Lucius McMillon
Mark Dalton
Jeff Kiker
Harry House
Anthony Petty
David Roebuck
Warren Hall
Todd Carroll
John Shoenfelt
Hollie Trivette
Paul Lattore
Erik Leupold

Derek Partee
Audra Coleman
Donna Campbell
Sandra Russell
Kathy Broom
Laura Kosturi
Dorian Dehnel
Gary Pastor
Walter Pylypiw
James L. Zopp
David Martinez

Durward Conner
Mark Greenfield
Ruth Reynolds
Stephen Bill
David Leonard
Robert McCrury
Michael Easterday
Samer-Russam
Chris Green
Ron Mann
James Rorie

CALL TO ORDER

Chairman Eric Weaver called the December 17, 2015 Private Protective Services Board meeting to order at 9:00 a.m. Chairman Weaver requested that Mr. Benson lead the group in the reciting of the Pledge of Allegiance followed by him welcoming all guests.

GOOD OF THE ORDER:

Attorney Jeff Gray explained the State Ethics Act, which addresses the ethics of public officials. This Act states specifically that if any Board Member has any conflict of interest, potential conflict of interest, or the appearance of a conflict, he or she should remove themselves from deliberation and vote on that matter and so state on the record.

Mr. Gary Pastor, President of the NCAPI, greeted the Board and all of the guests. He said the Association held the NCAPI fall conference in New Bern, NC on November 5 - 6, 2015. He stated that the conference had great turnout of 142 attendees, 11 vendors and they held election of new officers. He also stated that he started a non- profit organization that will allow him to apply for the Board's grant. He noted that this organization is not directly associated with the NCAPI but it will benefit the Private Investigator profession across the state.

Mr. Pastor announced that the Association will hold its annual meeting in Greensboro, NC and the guest speaker will be Director Barry Echols.

MINUTES:

APPROVAL OF THE OCTOBER 22, 2015 BOARD MEETING MINUTES

MOTION BY MR. MACRAE TO ACCEPT THE MINUTES; SECONDED BY MR. FLETCHER; MOTION CARRIED.

SCREENING COMMITTEE REPORT:

Mr. Benson reported that the Screening Committee met on Wednesday, December 16, 2015, from 2:00 p.m. to 5:00 p.m. to review a total of 33 applications. (See report). The committee members were Mr. Benson, Mr. Cobbler, Mr. Foster, Mr. MacRae, Mr. Arndt and Mr. Lowman. Mr. Benson read the report for the record. (See attachment)

It was noted Mr. Arndt recused himself from #11 & 15 of the screening report.

It was noted that Mr. Foster recused himself from #3 of the screening report.

It was noted that Mr. Epley recused himself from #20 of the screening report.

It was noted that Mr. Fletcher recused himself from voting on the screening report.

MOTION BY MR. COOK TO ACCEPT THE SCREENING REPORT; SECONDED BY MR. MACRAE; MOTION CARRIED.

Mr. Benson presented the following registration report for the period of September 16, 2015 to December 15, 2015. Total registrations 6409; armed totals were 790 of which 294 were new and 428 were renewals, and 62 reissue/dual. There were a total of 158 Armed Armored Car, 70 of which were new and 73 renewals. There were a total of 21 Armed Private Investigators, 10 of which were new and 11 renewals. There were a total of 7 Armed Private Investigator Associates, 1 of which was new. Unarmed totals were 5,397 which included 2247 new, 2247 renewals, 501 transfers, and 20 duplicates. There were a total of 36 unarmed armored cars, 16 of which were new and 18 renewals. Total denials were 776 of which 154 were for cause and 622 for correctable reasons. There were 457 applications approved which were previously denied for a total of 1233 denials reviewed.

MOTION BY MR. COOK TO ACCEPT THE REGISTRATION REPORT; SECONDED BY MR. MACRAE; MOTION CARRIED.

GRIEVANCE COMMITTEE REPORT:

Mr. Cook reported that the Grievance Committee met on Wednesday, December 16, 2015 from 8:00 a.m. to 10:00 a.m. and heard a total of three cases. The committee members were Mr. Cook, Mr. Johnson and Mr. Epley. Mr. Cook read the report for the record. (See attachment)

Mr. Weaver appointed Mr. Fletcher to the Grievance Committee. He also recommended that the training and education committee needs to allow more time prior to the full Board meeting.

MOTION BY MR. MACRAE TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MR. BENSON; MOTION CARRIED.

TRAINING & EDUCATION COMMITTEE:

Mr. MacRae reported that the Training & Education Committee met on December 17, 2015 from 8:00 a.m. until 9:04 a.m. The committee members were Mr. Johnson, Mr. Epley, Mr. Cook, Mr. Arndt and Mr. Cobbler.

Mr. Turner reported that there are no further trainer courses scheduled for the remainder of year 2015.

Presently we have 359 certified PPS unarmed guard trainers and 114 PPS certified armed guard trainers.

The following PPS Training Courses have been completed:

- | | |
|--------------------|---|
| November 2-6, 2015 | (0800-1700) UAGT Course & Workshop at WTCC |
| November 16, 2015 | (1000-2300) FT Re-certification & Pre-Qualification Course NCJA |
| September 2, 2015 | (1000-2300) FT Re-Certification & Pre-Qualification Course NCJA |

The following PPS Training Courses for CEU Credits were scheduled to take place before the end of 2015.

- | | |
|-------------------|-----------------------------------|
| December 17, 2015 | 1:00 p.m. - 5:00 p.m. Raleigh, NC |
|-------------------|-----------------------------------|

The following PPS Training Courses for CEU credits have been completed:

- | | |
|-------------------|-----------------------------------|
| December 17, 2015 | 1:00 p.m. - 5:00 p.m. Raleigh, NC |
|-------------------|-----------------------------------|

Mr. Turner stated that the committee discussed several issues regarding weapon discharge by employees since the last Board meeting; which involved the following companies Dunbar Armored, Inc., Securitas Security Services, Inc., Loomis Armored US, LLC and Guard One.

Mr. MacRae reported that Mr. Johnson received an e-mail from Mr. Newton with Duke Energy nuclear plant regarding training issues. He stated that they are having a difficult time allowing the recertification of their armed officers to qualify based on the PPSB schedule. Mr. MacRae stated that the committee had formed a subcommittee to work with Mr. Newton regarding his issues.

Mr. MacRae stated that there was some concerns regarding the number of students attending the PPS Armed Trainer/Pre-Qualification course. The committee requested that Mr. Turner research this and his finding was that these classes are not full.

The new 2016 PPSB Unarmed Guard Trainer and Firearms Trainer courses dates are as follows:

Unarmed Guard Trainer course dates:

March 14-18, 2016

May 2-6, 2016

August 1-5, 2016

September 26-30, 2016

November 28-December 2, 2016

2016 Firearms Trainer Prequal/Re-qual course dates:

February 29, 2016

June 6, 2016

July 11, 2016

September 7, 2016

November 14, 2016

Firearms Trainer course dates:

April 4-8, 2016

September 12-16, 2016

Mr. MacRae stated the following seven (7) continuing education training courses have been submitted for approval: Help Investigators to Prepare Reports for Insurance Companies, Attorneys, Court Cases and Court Testimony, PI ethics (12); Report writing for Security and Private Investigations (8 hours); Basic Theories and Use of Convert Video Surveillance Equipment (8 hours); Glock Armorer Course (8 hours); Business Essentials and Best Practices (4 hours); Recording Laws: Audio and Visual (6 hours); The Care Interviewing System (?).

MOTION BY MR. EPLEY TO ACCEPT THE COURSES SUBMITTED FOR CONTINUING EDUCATION TRAINING APPROVAL. DENY COURSES ENTITLED HELP INVESTIGATORS TO PREPARE REPORTS FOR INSURANCE COMPANY'S ATTORNEYS, COURT CASES AND COURT TESTIMONY, PI ETHICS; BUSINESS

**ESSENTIALS AND BEST PRACTICES AND THE CARE INTERVIEWING SYSTEM;
SECONDED BY MR. BENSON ; MOTION CARRIED.**

**MOTION BY MR. COBBLER TO ACCEPT THE TRAINING AND EDUCATION
COMMITTEE REPORT; SECONDED BY MR. LOWMAN; MOTION CARRIED.**

It was noted that Mr. Arndt recused himself from voting on the training and education committee report.

GRIEVANCE COMMITTEE:

NONE

SCREENING COMMITTEE:

NONE

LAWS AND RULES COMMITTEE

NONE

FINANCE REPORT:

NONE

ETHICS COMMITTEE:

Mr. Lowman stated that he has been in contact with State Ethics Commission and there is only one member whose training is due this month.

**MOTION BY MR. BENSON TO ACCEPT THE ETHICS COMMITTEE'S REPORT;
SECONDED BY MR. COOK; MOTION CARRIED.**

OLD BUSINESS:

A plaque was presented to Mr. William Booth for his service to the PPSB Board from February 2006 thru June 2015.

A plaque was presented to Judge Ron Burriss for his service to the PPSB Board from November 2005 thru June 2015.

Mr. Benson asked about the status of the DPS e-mail address. Once everyone has been assigned their DPS e-mail address, Mr. Echols reiterated he will inform the Board members.

BREAK: 9:54 a.m.
RECONVENED: 10:11 a.m.

NEW BUSINESS:

NONE

FINAL AGENCY DECISION

Attorney Gray reminded the Board that at the last meeting they decided to go back to a procedure that had not been used for a long time; to ensure recusals of members who sat in on either screening or grievance which is appealed. He noted that there are not very many of these cases. Mr. Johnson and some others that have sat on the Criminal Justice Standards Commission, strongly recommended the board do so, and he asked the board to start with that today. Board Members will not have to recuse when it is a "for cause" denial, which is the vast majority of denials, generally for criminal history issues an applicants may have.

David Wayne Holland - 15 DOJ5712. Mr. Holland was present. This case was heard by Administrative Law Phillip E. Berger Jr. on August 25, 2015. This case involved the denial of the petitioner's unarmed guard registration based on lack of good moral character and demonstration of intemperate habits as evidenced by a conviction of misdemeanor Larceny.

MOTION BY MR. MACRAE TO UPHOLD THE BOARD'S INITIAL DECISION AND DENY MR. HOLLAND'S UNARMED GUARD REGISTRATION APPLICATION; SECONDED BY MR. COOK; FOUR OPPOSED; MOTION CARRIED.

Samer Muneer Al-Russan - 15 DOJ4663. Mr. Al-Russan was present. This case was heard by Administrative Law Phillip E. Berger Jr. on August 25, 2015. This case involved the denial of the petitioner's unarmed guard registration based on lack of good moral character and demonstration of intemperate habits as evidence by a conviction of two separate counts of Driving While Impaired.

MOTION BY MR. BENSON TO REVERSE THE BOARD'S INITIAL DECISION AND GRANT MR. AL-RUSSAN HIS UNARMED GUARD REGISTRATION APPLICATION; SECONDED BY MR. COOK; TWO OPPOSED; MOTION CARRIED

Alicia Catherine Nolan- 15 DOJ4442. Ms. Nolan was not present. This case was heard by Administrative Law Philip E. Berger Jr. on August 25, 2015. This case involved the denial of

the petitioner's application for a Security Guard & Patrol License based on lack of good moral character and demonstration of intemperate habits as evidenced by her negative employment history.

MOTION BY MR. BENSON TO UPHOLD THE BOARD'S INITIAL DECISION AND DENY ALICIA CATHERINE NOLAN A SECURITY GUARD & PATROL LICENSE; SECONDED BY MS. NADA; FOUR OPPOSED; MOTION CARRIED.

MOTION BY MR. JOHNSON TO GO INTO CLOSED SESSION TO RECEIVE LEGAL ADVICE FROM THE BOARD'S ATTORNEY AS TO THE NEXT CASE; SECONDED BY MR. BENSON; MOTION CARRIED.

CLOSED SESSION: 11:04 a.m.
RECONVENED: 11:26 a.m.

Michael L. Thompson - 15 DOJ4461. Mr. Thompson was not present. This case was heard by Administrative Law Philip E. Berger Jr. on August 25, 2015. This case involved the denial of the petitioner's application for a Private Investigator License based on lack of good moral character and demonstration of intemperate habits as evidenced by his negative employment history.

MOTION BY MR. COOK TO UPHOLD THE BOARD'S INITIAL DECISION AND DENY MICHAEL THOMPSON A PRIVATE INVESTIGATOR LICENSE; SECONDED BY MR. COBBLER; MOTION CARRIED.

DIRECTOR'S REPORT:

Director Barry Echols read the report for the record. The current PPS budget as of November 30, 2015, has a balance of \$1,219,226.69; the Education Fund balance is \$74,338.68. As of November 30, 2015, the total registrations for PPS is 18,301: 1,823 licensees and 579 certifications.

Mr. Echols reported that there have been a total of 2,497 various correspondences printed from the PPS database, 4,138 registration cards have been printed and a total of 4,956 applications received since the last Board meeting.

The resignation of Deputy Director Anthony Bonapart, effective December 11, 2015, was reported; Mr. Echols stated he had no further information at the time other than apparently, Mr. Bonapart had found a better job.

Mr. Echols reported that he and Phil Stephenson traveled to New Bern to attend the meeting of the NC Association of Private Investigators back November. He stated there was great interaction and they gave out approximately 50 PI or PIA applications, and they talked to approximately 200 people. He noted he is to attend and speak at the NCAPI annual meeting dinner on January 8, 2016, in Greensboro.

Reporting on the status of the computer system. Mr. Echols read an e-mail received before this morning's meeting from Bob Hinson, CIO of DPS, which stated in part... "all steps were complete as of 12/14/15..." and that usually a 10 day time period to complete the projects but deadlines are seldom met, but he told them to meet this one. The proposal should go to the vendor in mid-January.

The search for the PPS office space continues. Mr. Echols reported that he is staying in close contact with Chairman's Weaver and Gregory and the State Property Office in order to evaluate options. The lease on the current space expires September 2016, however, per the contract the lease can be extended if necessary. The gathering of information is ongoing and he is passing it along.

Mr. Echols reported on the registration backlog as being three weeks for armed and eight weeks for unarmed and alarm.

Finally, he reported that the hiring of two new investigators will take place next week, stating that both people being looked at are seasoned investigators. He noted that Cynthia Hepburn will be reassigned as lead auditor for PPS.

MOTION BY MR. JOHNSON TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. BENSON; MOTION CARRIED.

ATTORNEY'S REPORT:

Attorney Gray discussed the following:

I. CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES

1. Deborah Young/National Alliance Security Agency (Screening) - Consent Agreement in the amount of \$2,040.00 has not been received.

2. David Grimes and Sentry Security Services, Inc. - Consent Agreement in the amount of \$1,762.56 was never mailed to licensee, per Director Echol's instructions to hold all consents until further notice.
3. Mark Eric Zudell and ABM Security, Inc. - Consent Agreement in the amount of \$12,974.40 was never mailed to licensee per Director Echol's instructions to hold all consents until further notice.

II. OFFICE OF ADMINISTRATIVE HEARINGS

The schedule of hearings in the Office Administrative Hearings is attached to the Attorney's Report.

III. RULES

1. At the Board's December 2014 meeting it voted to approve a rifle as an authorized firearm to be carried by armed security guards upon training and registration. Amendments to 14B NCAC 16 .0807, .0809, .0901 and .0904 were approved at the Board August 27, 2015 meeting and the required Notice of Text published in the North Carolina Register and on the Board's website. A public hearing was held on these rules last Friday, October 16th and one citizen was in attendance. One person later submitted written comment. The public comment period expires November 30, 2015. Once any action is taken by the board on the public comment and the amendments approved, the amended rules can be filed for review by staff with the Rules Review commission. The deadline is December 21st (four days after today's meeting.)

The minutes of the public hearing, with a synopsis of the comments, and the written comment is attached. (*See*, attachment 2.) Mr. Gray recommend that the Board wait until its December Board meeting and review all comments.

A copy of these rule amendments, as published in the North Carolina Register were attached to the Attorney's Report. A vote to approve them is necessary.

MOTION BY MR. JOHNSON TO MOVE FORWARD WITH THE RULES TO INCLUDE THE ITEMS IDENTITY IN HIS ATTACHED LETTER OF THE ATTORNEY'S REPORT; SECONDED BY MR. BENSON; MOTION CARRIED.

2. At the last Board meeting Mr. Gray was instructed to proceed with some miscellaneous rule adoptions and amendments. The adoption of a new rule, 14 B

NCAC 16 .0115, would allow for extensions of time in limited instances, and amendments to 14B NCAC .0201 and .0402. (Two other rules, .0302 and .0401, have very minor corrections being made.) These rules adoption and amendments were attached to the Attorney's Report. A vote to approve and proceed with filing the Notice of Text is necessary.

MOTION BY MR. BENSON TO HOLD OFF FROM APPROVING THESE MISCELLANEOUS RULES UNTIL MORE ITEMS ARE READY TO PROCEED TO RULEMAKING; SECONDED BY MR. FLETCHER; MOTION CARRIED.

IV. LEGISLATION

- I. House Bill 299, "Amend Private Protective Services Act/Changes," was heard in the House Committee on Judiciary III on May 6, 2015. It was amended to add a provision allowing the Board to own real property (with a similar provision for the Alarm Systems Licensing Board) and received a favorable report. However, the serial referral to the House Finance Committee was stricken and it was referred to the House Committee on Rules, Calendar and Operations of the House. There was no further action on this bill thereafter.

Since it has a fee in it, this bill is still eligible for consideration and Mr. Gray will continue to work with Ryan Combs and Jarrett Burr, Legislative Liaisons for DPS, in the "short session" when the legislature re-convenes on April 25, 2016.

- II. A number of other bills of interest - - either directly effecting the Board, or Tangentially effecting it - - have been introduced this Session. They are:
 - a. Senate Bill 408, "Firearms on School Grounds/Security Guards," would provide that the prohibition on carrying a weapon on educational property would not apply to an armed security guard registered under Chapter 74C of the General Statutes when acting in the discharge of the guard's duties with the permission of the college, university, or superintendent of the local school administrative unit. This bill would also allow any local law enforcement agency to request a list of the armed security guards employed by the college, university, or local school administrative unit. It was referred to Senate Committee on Rules and Operation of the Senate and saw no further action.
 - b. Four bills, Senate Bill 469, "Occupational Licensing Board Reporting Requirements," Senate Bill 361, "Occupational Licensing Reform Study," and House Bill 760, "Regulatory Reform Act of 2015," and House Bill

765, (also named) Regulatory Reform Act of 2015, each address some aspect of the Program Evaluation Division's Report on occupational licensing boards that was released December 2014. For the most part, the Board was not affected by this Report, however, its status as an "Article 3A agency" under Chapter 150B, the Administrative Procedures Act, could be challenged. (Note: Article 3A is the section that allows the Board to make the final decision following an administrative hearing before the Office of Administrative Hearings.)

House Bill 765 is the only one of these four bills that saw final action, and it passed and was presented to the Governor for signature on October 1st. Most provision in this bill were directed towards environmental issues, but house Bull 765 did contain two interesting provisions. A licensee of an occupational licensing board can no longer be contracted with or employed by the Board to serve as an investigator or inspector if the person is still actively practicing in the profession or occupation, Second, was a provision directing the Joint Legislative Administrative Procedure Oversight Committee to review the recommendations in the Program Evaluation Divisions report on occupational licensing boards, consult with interested parties, and make recommendations for proposed legislation in the "short session."

- c. One bill is of particular interest to the Board in that it would help resolve when someone is an "employee" and when the person is an "independent contractor." Aimed at reducing lost tax revenue due to intentional worker misclassification, House Bill 482, "Employee Fair Classification Act," has a specific provision that would require all occupational licensing boards to: 1) include on every application for licensure, permit, or certification, or application for renewal, a certification that the applicant has read and understands the employee misclassification notice set forth in new G.S. 95-278(a)(7); 2) require all applicants to truthfully certify on the appropriate application that the applicant has read and understands the employee misclassification notice set forth in new G.S. 95-278(a)(7); 3) deny the license, permit or certification application of any applicant who fails to comply with the certification requirement; and 4) revoke such license, permit, or certificate and deny and refuse to grant any renewal or other application therefor until the licensee, permittee, certificate holder or applicant shall have furnished evidence sufficient to establish compliance with new G.S. 95-279(a). The bill also provides a succinct definition of "employee."

House Bill 482 passed the House, passed the Senate with amendments, and on return to the House for concurrence was assigned to the Committee on Rules, Calendar and Operations of the House and no further action. It is eligible for consideration in the "short session."

- d. Twice over the past three (3) years, the Board has had to amend its administrative rules to reflect first the passage of, then an amendment to, G.S. § 93B-15.1, entitled, "Licensure for individuals with military training and experience; licensure by endorsement for military spouses; temporary license." (Chapter 93B of the General Statutes governs all occupational licensing boards.) Senate Bill 545, "Workforce Enhancement/Veterans," requires licensure based solely on proof of a military occupational specialty and passage of a proficiency exam. Senate Bill 545 was signed by the Governor on July 8, 2015.

After this issue was discussed at the Board's October meeting, it was determined that a third round of rule amendments is not necessary. Creation of a "proficiency examination" for each of the licensees, registrations and certifications issued by the Board will be done on an as-needed basis.

V. PENDING CASES

For the past 30 months Attorney Gray has been reporting to the Board the status of a civil action filed against Board Investigator Sarah Conner, the Board, the City of Charlotte, the Charlotte-Mecklenburg Police Department and various officers of the Charlotte-Mecklenburg PD in *Kelly v. Conner, et al.*, No. 3:13-cv-636 - - WDNC. (Mr. Kelly was unlicensed as a security guard business and unregistered as a security guard, but performing armed security guard and patrol services. He was arrested by the Charlotte-Mecklenburg Police Department and charged with violating Chapter 74C.) Attorney Gray informed that the Court granted the Board's Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b) (6) and Motion for Summary Judgment, as well as similar motions filed by the other Defendants, on May 27, 2015. This action was dismissed with prejudice. The Plaintiff gave notice of appeal on June 24th.

The Plaintiff-Appellant has filed his Brief and Mr. Gray filed the Board's Brief with the Fourth Circuit Court of Appeals on November 13, 2015.

Mr. Weaver asked the status of the consents agreements. Mr. Echols reported that they are currently discussing the issue with the Department of Public Safety and once these issues has been resolve he will update the Board.

MOTION BY MR. MACRAE TO ACCEPT ATTORNEY'S REPORT; SECONDED BY MR. BENSON; MOTION CARRIED.

PUBLIC COMMENT:

NONE

MOTION BY MR. COBBLER TO ADJOURN; SECONDED BY MR. MACRAE; MOTION CARRIED.

12:15 P.M. Adjourned

Barry Echols, Director

Garcia Graham, Board Secretary