



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
JUNE 23, 2016
HOLIDAY INN NORTH
2805 HIGHWOODS BLVD
RALEIGH, NC 27604**

BOARD MEMBER PRESENT

Eric Weaver Sr.
David Arndt
Ed Cobbler
Clyde Cook
Richard Epley
William Fletcher, Jr.
William MacRae
Steve Johnson
Brian Lowman
Nada Lawrimore
Bud Cesena
Dustin Greene
Larry Proctor

BOARD MEMBERS ABSENT

Marcus Benson

STAFF PRESENT

Barry Echols – Director
Donald Foster – Deputy Director
Phillip Stephenson - Field Services Supervisor
Jeff Gray - Attorney
Melvin Turner - Investigator
Garcia Graham – PPS Board Secretary
Deborah Martin-Johnson – Licensing Assistant

GUEST PRESENT

Gregory Foster
Suzanne Creech
Tamara Rabenold

Larry Flannery
Jerry Pitman
Keith Hollen

Leonard Wolf
Gregory Hatten
Paula Hayes

MAILING ADDRESS:
4901 Glenwood Avenue, Suite 200
Raleigh, NC 27612

E-mail: PPSASL@ncdoj.gov



www.ncdps.gov/pps
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OFFICE LOCATION:
4901 Glenwood Avenue, Suite 200
Raleigh, NC 27612
Telephone: (919) 788-5320
Fax: (919) 788-5365

Guest Present Continued.

Monty Clark
Kenneth Sheffield
Jeff kiker
Chris Hilton
Thomas Lewin

Christopher Mayhue
James L. Green
Ryan Rabenold
Harllan Calhoun
Mark Greenfield

James Oldenburg
Robert Dunn
Audra Coleman
Denise Martin
Dorian Dehnel

CALL TO ORDER

Chairman Eric Weaver called the June 23, 2016 Private Protective Services Board meeting to order at 9:30 a.m. Chairman Weaver led 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. Gregory Hatten of the NCAPI, greeted the Board and all of the guests. He said the association is currently working on the NCAPI Fall Conference that is scheduled for November 1-3 at the Hilton Hotel, Durham, NC. He reminded everyone that this is a two day conference and licensees can receive 12 continuing education credit hours for attending.

MINUTES:

APPROVAL OF THE APRIL 21, 2016 BOARD MEETING MINUTES

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

SCREENING COMMITTEE REPORT:

Mr. MacRae reported that the Screening Committee met on Wednesday, June 22, 2016, from 1:30 p.m. to 5:06 p.m. to review a total of 45 applications. (See report). The committee members included Mr. MacRae, Mr. Cobbler, Mr. Arndt, Mr. Proctor and Mr. Lowman. Mr. MacRae read the report for the record. (See attachment)

Mr. Arndt recused himself from #35, 40 and 44 of the screening report.

MOTION BY MR. COBBLER TO ACCEPT THE SCREENING REPORT; SECONDED BY MR. PROCTOR; MOTION CARRIED.

Mr. MacRae presented the following registration report for the period of April 16, 2016 to June 21, 2016. Total registrations 4582; armed totals were 545 of which 194 were new and 317 were renewals, and 34 reissue/dual. There was a total of 118 Armed Armored Car, 61 of which were new, 57 renewals. There was a total of 20 Armed Private Investigators, 4 of which were new, 16 renewals. There was a total of 2 Armed Private Investigator Associates, 1 of which was new and 1 renewal. Unarmed totals were 3,870 which included 1312 new, 2215 renewals, 327 transfers, 16 duplicates. There was a total of 27 unarmed armored cars, 8 of which were new, 19 renewals. Total denials were 566 of which 143 were for cause and 423 for correctable reasons. There were 514 applications approved which were previously denied for a total of 1080 denials reviewed.

MOTION BY MR. PROCTOR TO ACCEPT THE REGISTRATION REPORT; SECONDED BY MR. COBBLER; MOTION CARRIED.

GRIEVANCE COMMITTEE REPORT:

Mr. Greene reported that the Grievance Committee met on Wednesday, June 22, 2016 from 9:00 a.m. to 11:45 a.m. and heard a total of five cases. The committee members were Mr. Greene, Mr. Cook, Ms. Lawrimore, Mr. Fletcher, Mr. Proctor, Mr. Johnson and Mr. Epley. Mr. Greene read the report for the record. (See attachment)

Mr. Cook recused himself from case #2016-PPS-004 of the Grievance report.

Mr. Cesena recused himself from case #2016-PPS-008 of the Grievance report.

MOTION BY MR. LOWMAN TO ACCEPT THE GRIEVANCE COMMITTEE REPORT; SECONDED BY MR. COBBLER; MOTION CARRIED.

TRAINING & EDUCATION COMMITTEE:

Mr. MacRae reported that the Training & Education Committee met on June 23, 2016 from 8:00 a.m. until 8:56 a.m. The committee members were Mr. MacRae, Mr. Johnson, Mr. Epley, Mr. Cook, Mr. Arndt, Mr. Cesena and Mr. Cobbler.

The following PPS Trainer courses are scheduled:

July 11, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
August 1-5, 2016	(0800-1700) UAGT Course & Workshop at WTCC
September 7, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
September 12-16, 2016	(1000-2300) FT Course & Legal Class at Salemburg NCJA
September 26-30, 2016	(0800-1700) UAGT Course & Workshop at WTCC
November 14, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA
November 28 – December 2, 2016	(0800-1700) UAGT Course & Workshop at WTCC

Presently we have 374 certified PPS unarmed guard trainers and 114 PPS certified armed guard trainers.

The following PPS Training Courses have been completed:

May 2-6, 2016	(0800-1700) UAGT Course & Workshop at WTCC
June 6, 2016	(1000-2300) FT Re-Certification & Pre-Qualification Course NCJA

The following PPS Training Courses for CEU Credits are scheduled:

August 25, 2016	1:00 p.m. - 5:00 p.m. Raleigh, NC
December 15, 2016	1:00 p.m. - 5:00 p.m. Raleigh, NC

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

February 18, 2016	1:00 p.m. - 5:00 p.m. Raleigh, NC
April 21, 2016	1:00 p.m. - 5:00 p.m. Raleigh, NC

Mr. Turner reported that there was one weapon discharge since the last Board meeting from Major Bill Keiser, Guard One Protective Services, Matthews, NC that he discharge his firearm

while on duty trying to protect a third party. He also stated that Mr. Keiser will submit a local police report and other documents.

Mr. Turner gave an update on a previous weapon discharge by Jamal Richardson who is requesting permission to be able to apply for an armed guard registration to work with Walton Investigations, Inc., but has not submitted a registration application as yet.

The T&E committee referred Mr. Richardson's request to the Screening Committee.

Mr. Tuner also reported that the following matter are still pending: the unarmed guard trainer Power Point presentation/trainer manual and the shotgun and rifle course.

Mr. MacRae stated the following eleven (11) continuing education training courses have been submitted for approval: Social Media for Investigations (6 hours); Reporting Writing for Investigator (4 hours); Successful Interviewing for Investigator (4 hours); Successful Investigator Traits (4 hours); Federal State and Local On-Line Resources to Aid in Investigations (6 hours); Open Source Intelligence (4 hour); Human Trafficking (4 hours); Homeland Security: Enemies Foreign (2 hours); Homeland Security: Enemies Domestic (2 hours); GPS & Drone Technology (12 hours).

The committee recommended not to approve one course, Resource Guide to Division of Motor Vehicles course submitted by Frank Bianco, due to lack of content.

MOTION BY MR. LOWMAN TO ACCEPT TEN (10) COURSES SUBMITTED FOR CONTINUING EDUCATION TRAINING APPROVAL; SECONDED BY MR. COBBLER; MOTION CARRIED.

Mr. Foster asked the Board's permission to add another temporary position that can assist Mr. Turner with his daily work.

MOTION BY MR. CESENA TO AUTHORIZE STAFF TO LOOK FOR A TEMPORARY EMPLOYEE TO ASSIST MR. TURNER WITH A ONE YEAR LIMIT; SECONDED BY MR. COOK; MOTION CARRIED.

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

GRIEVANCE COMMITTEE:

NONE

SCREENING COMMITTEE:

NONE

LAWS AND RULES COMMITTEE

Ms. Lawrimore reported that the Law and Rules Committee met on Wednesday, June 22, 2016 from 8:00 a.m. to 8:59 a.m. The committee members were Ms. Lawrimore, Mr. Greene, Mr. MacRae, Mr. Arndt, Mr. Fletcher, Mr. Cook and Mr. Proctor.

Ms. Lawrimore and the law and rules committee discussed editing language in 74C by looking at different ways to protect the public and industry members. One of the options the committee would like to look at is to ban an armed guard if the applicant is listed on the “no fly list” and the cost effectiveness of implementing this change. Ms. Lawrimore also gave an update on House Bill 299 and the status of the federal regulations governing drones.

MOTION BY MR. GREENE TO ACCEPT THE LAW AND RULES COMMITTEE'S REPORT; SECONDED BY MR. COBBLER; MOTION CARRIED.

FINANCE REPORT:

NONE

ETHICS COMMITTEE

Mr. Lowman reported that everyone is in 100% compliance. He asked Board members to look in their packets at the ethics compliance report which shows the dates of the next course that is required for all members to complete. Four of the members have upcoming course that are due before the end of the year.

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

BREAK: 10:29 a.m.
RECONVENED: 10:47 a.m.

OLD BUSINESS:

David Arndt requested that staff update the website.

NEW BUSINESS

Mr. Weaver expressed his concern with Board members going to the General Assembly without contacting other members of the Board. After brief discussion on the matter, it was suggested that if any members of the Board wish to attend the General Assembly they must first contact the Chairman Weaver and Nada Lawrimore in advance.

FINAL AGENCY DECISION

Porsha Denise Patterson - 16 DOJ00235. Deferred until the next Board meeting.

DIRECTOR'S REPORT:

Mr. Echols read the report for the record. The current PPS budget as of June 17, 2016, has a balance of \$1,352,134.15; the Education Fund balance is \$77,925.12. As of June 17, 2016, the total registrations for PPS is 19,647: 1,737 licensees and 568 certifications.

Mr. Echols reported that there has been a total of 4,685 registration cards have been printed and a total of 5,336 applications received since the last Board meeting.

Mr. Echols, gave an updated on the new computer/scanning project and advised members that the current office space lease is due to expire. Mr. Echols asked the Board if they wish for him to continue to look for a new office location?

MOTION BY MR. LOWMAN TO HAVE DIRECTOR ECHOLS TO CONTINUE TO SEARCH FOR A LOCATION FOR OFFICE SPACE PRIVATE PROTECTIVE SERVICES; SECONDED BY MR. COBBLER; MOTION CARRIED.

David Arndt expressed his concerns regarding the PPS finances and the new computer system. He asked Director Echols for a more detail report on finance and would like to know if Peridum will create a template to meet our needs.

MOTION BY MR. ARNDT TO CREATE A SUBCOMMITTEE OF THREE MEMBERS TO WORK WITH THE PPS STAFF TO OVERSEE THE NEW COMPUTER SYSTEM; SECONDED BY MR. CESENA; MOTION CARRIED.

The committee members are David Arndt, William MacRae and Richard Epley.

MOTION BY MR. PROCTOR TO ACCEPT THE DIRECTOR'S REPORT; SECONDED BY MR. CESENA; MOTION CARRIED.

PUBLIC COMMENT:

Kathy Broom addressed the Board with her concerns about licensee Bobby Hovis using the name "Eagle Eye Investigations" which is not the name his license is issued under. She stated that the name he is using is very similar to her company name. She also stated that her company received a call from an individual who thought that Mr. Hovis works for her company. She feels it unethical for him to use that name.

The Board requested that staff look into this matter and report back,

ATTORNEY'S REPORT:

Attorney Gray discussed the following:

I. CONSENT AGREEMENT, SETTLEMENT AGREEMENTS & CIVIL PENALTIES

1. Mr. Mark Eric Zudell and ABM Security, Inc. - - On October 22, 2015 the Private Protective Services Board voted to enter into a consent agreement with Mr. Zudell in the amount of \$12,974.40 for registration violations. Payment has not been received.

MOTION BY MR. GREENE TO REFER MARK ZUDELL AND ABM SECURITY, INC. BACK TO GRIEVANCE COMMITTEE FOR FAILURE TO PAY CONSENT AGREEMENT; SECONDED BY MR. COOK; MOTION CARRIED.

2. Mr. Paul Manley and Show Pros Entertainment Services of Charlotte, Inc. - - On March 17, 2016 the Private Protective Services Board voted to enter into a consent agreement with Mr. Manley in the amount of \$53,611.20, to be paid in three (3) monthly installments, for registration violations. Paid in full
3. Mr. Daitwan Hardy and Security Contracting, Inc. - - On February 17, 2016 the Private Protective Services Board voted to enter into a consent agreement with Mr. Hardy in the amount of \$5,385.60 for registration violations. Paid in full

4. Mr. Jerry Callicutt and Randolph Security Services - - On April 21, 2016 the Private Protective Services Board voted to enter into a consent agreement with Mr. Callicutt in the amount of \$5,508.00 registration violations. Paid in full
5. Mr. John Callicutt and Walton Investigations, Inc. - - On April 21, 2016 the Private Protective Services Board voted to enter into a consent agreement with Mr. Callicutt in the amount of \$7,882.56, payable in three (3) monthly installments, for registration violations. Received payment on June 17,2016 in the amount of \$5,255.04.
6. Mr. Christopher Hammye Jr. and Job1 USA, Inc. - - On April 21, 2016 the Private Protective Services Board voted to enter into a consent agreement with Mr. Hammye in the amount of \$3,794.40 registration violations. Payment has not been received.

II. OFFICE OF ADMINISTRATIVE HEARINGS

The schedule of hearings in the Office Administrative Hearings is attached to the Attorney's Report. (*See*, attachment 1.)

III. RULES

The Board currently has no pending rule adoptions or amendments.

IV. LEGISLATION

1. House Bill 299, "Amend Private Protective Services Act/Changes," was passed by the House Committee on Judiciary III on June 14, 2016. It has been assigned to the Senate Committee on Judiciary II. The bill had the Board's requested additions made by way of a Committee Substitute in the House Finance Committee meeting on June 2nd, then was amended on the House floor to remove two provisions related to the Alarm Systems Licensing Board which had been added by the Committee Substitute.

Thanks go to Members Nada Lawrimore and Larry Proctor for diligent efforts in getting movement on this bill. A copy of the bill, as amended and passed, is attached (see attachment 2).

2. 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," introduced last year, 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 were introduced last year addressing some aspect of the program Evaluation Division's (PED) Report on occupational licensing boards that was released December 2014: 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." For the most part, the Board was not affected by the PED 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.) This has been addressed in House Bill 1007 which Mr. Gray reported on below.

House Bill 765 is the only one of these four bills that saw final action, and it passed and was presented to the Governor. Most provisions in this bill were directed towards environmental issues, but House Bill 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 ("Joint APO") to review the recommendations in the PED Report, consult with interested parties, and make recommendations for proposed legislation in the "short session." (Note: A subcommittee of the Joint APO was appointed and its fourth and last meeting to discuss these issues was March 17th. The results are described in paragraph 1 of the Legislation section of the April 21, 2016 Attorney's Report.)

A Second of these four bills, House Bill 760, has seen action this year recently passed the House. It mostly is directed towards environmental issues, but does modify the provision of House Bill 765 regarding using licensees as investigators.

3. Three bills have been introduced this Session that directly effect the Board:
 - a. House Bill 949 (Senate Bill 744) would require all occupational licensing boards to provide contact information to the Joint APO and keep it current. It was passed by the House June 9, 2016 and assigned to the Senate Committee on Rules and Operations of the Senate.
 - b. House Bill 948 (Senate Bill 743) would authorize Joint APO to (further) study oversight of occupational licensing boards and the State Bar and disciplinary actions of occupational licensing boards, and make a report of the study, including any legislative proposals, to 2017 General Assembly.
 - c. House Bill 1007 would make numerous amendments to Chapter 93B of the General Statutes to mainly respond to the U.S. Supreme Court's holding in North Carolina State Board of Dental Examiners v. Federal Trade Commission. This is a major move by the legislature in that it definitively establishes which boards are "Occupational licensing boards" (OLB) in North Carolina. If enacted, a board is not an OLB unless specifically listed in new G.S. 93B-1(b). Both the Private Protective Services Board and the Alarm System Licensing Board are both on the list. It also adds some additional State agencies which are to receive copies of the reports required by the G.S. 93B-2(a), adds four (4) more reports, and requires the reports to be posted on the board's website; it establishes the boards per diem at \$200.00 per day; it requires all boards to adopt rules delineating its process for complaints, disciplinary actions against licensees and enforcement actions against non-licensees, and requires any interpretation or clarification of scope of practice to be adopted as rule; it (re)establishes the venue for petitions for judicial review ("appeals") and allows for a change of venue; it allows for all boards to be able to seek injunctive relief for violations of its law; it creates a resolution procedure for jurisdictional disputes between boards; and, it mandates development of a complaint process by all boards.

Of particular note for the Board, this bill mandates "disclaimer" language - - which has been pre-approved by the Federal Trade Commission - - for all notifications to unlicensed persons and entities of a possible violation of the

law. This was in direct response to the Dental Board case and if enacted will require re-writing of the Board standard form "Cease and Desist" letter.

Also, this bill will clarify the concern Mr. Gray have previously expressed that the PED Report on Occupational Licensing Boards released in December, 2014 could raise an argument that the Board is not an OLB for purposes of hearings under Chapter 150B, Article 3A of the General Statutes. A copy of this bill is attached (attachment 3.)

4 One bill introduced last year 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.

V. PENDING CASES

For the past 34 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.) 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 24, 2015

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

The attorneys recently received notification that the oral arguments in this matter would be held the week of September 20, 2016. Due to a conflict of one of the attorneys, we are waiting scheduling for Courts' October 2016 term.

Attorney Gray informed the Board that his contract was up for renewal and he is requesting a 10% raised.

MOTION BY MR. JOHNSON TO GO INTO CLOSED SESSION; SECONDED BY MR. MACRAE; MOTION CARRIED.

CLOSED SESSION: 12:51 p.m.
RECONVENED: 1:17 p.m.

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

MOTION BY MR. CESENA TO ADJOURN; SECONDED BY MR. ARNDT; MOTION CARRIED.

1:18 P.M. Adjourned

Barry Echols, Director

Garcia Graham, Board Secretary

