

MINUTES

PRIVATE INVESTIGATORS LICENSING BOARD

SPECIAL MEETING

OCTOBER 23, 2008

MEMBERS PRESENT:

DANIEL CRATE: BOARD MEMBER (LAS VEGAS)

LOIS WILLIS: BOARD MEMBER (LAS VEGAS)

JAMES NADEAU: BOARD MEMBER

RICHARD PUTNAM: BOARD MEMBER

OTHERS:

MECHELE RAY: EXECUTIVE DIRECTOR

JEFF MENICUCCI: BOARD COUNSEL

KRISTINE MAUTNER: INVESTIGATOR

COLIN MURPHY: COMPLIANCE AUDITOR

ELAINE TRENT: ASSISTANT

ABSENT:

DAVID SPENCER: BOARD CHAIRMAN

Acting Chairman Crate opened the meeting with the roll call. He announced that Chairman Spencer was ill and he would be the acting chairman for the meeting.

APPROVAL OF MINUTES:

Board Member Putnam moved to approve the September 17, 2008 minutes and Board Member Willis seconded the motion, which passed.

SWEARING IN:

Board Counsel Menicucci swore in all those present who were to testify during the course of the meeting.

CONSENT AGENDA:

4. **Investigative Group LLC**, #1496 requested a corporate Private Investigator license; Craig Retke requested qualifying agent status and member approval.
5. **Garda Security, Inc.**, #1485, requested qualifying agent status for Dan Crate and a Private Investigator license for Mr. Crate.

Acting Chairman Crate recused himself from discussion or voting on Item #5. Board Member Nadeau moved to approve Consent Agenda Items 4 and 5 as written, subject to all statutory and regulatory requirements. Board Member Putnam seconded the motion, which carried.

DISCIPLINARY HEARINGS:

Executive Director Ray reported that both Items 6 and 7 had been granted a continuance for one time only until the December 10, 2008 meeting. Board Counsel Menicucci said a notice would be sent to the two parties advising them their hearings had been continued until December 10, 2008, but no further continuances would be granted.

ADMINISTRATIVE BUSINESS:

Item 8 involved discussion and possible action regarding whether or not private transportation companies required a Private Patrol license. Executive Director Ray said Wendy Livermore (Extraditions Officer with the Attorney General's Office), Marty Troescher (State of Nevada Purchasing), Roberto Salgado, and Steven Sanzeri (both with American Extraditions Specialists) were present in Carson City to discuss the matter. No one was present in Las Vegas to discuss the topic.

Executive Director Ray said the issue was discussed several years prior during a Board meeting, but the minutes were rather vague. She recalled the meeting and the discussion that ensued. She said nothing had been done during the past few years regarding the need for licensure by the Board for the transportation companies. She said a request for proposal had been made. One of the companies who offered a bid on the RFP was told a license may be required. That company obtained an application and she met with their representatives. She asked for direction on the topic. She understood from previous conversations during Board meetings was that a license was necessary.

Acting Chairman Crate shared his recollections regarding the agenda item. He said the discussion was brought about because of the privatization/hiring of private companies to operate in the prison system. As that practice had ceased, to the best of his recollection, it rendered the point moot and the topic wasn't discussed further. He asked for comments.

Wendy Livermore said she had worked in Extraditions for over 20 years. Transportation companies had been used by Extraditions to transport prisoners from a different state to Nevada for at least 10 years, as the practice was more cost effective. She clarified that the matter had nothing to do with the security of an actual prison, but for Extraditions only. The Attorney General's Extradition unit worked at the state level, while local law enforcement was in charge of county extraditions. She said the agenda item involved only moving people from Point A to Point B, which was Nevada. Only one company, American Extraditions Specialists, was housed in Nevada. Others were primarily located in California and Tennessee.

Acting Chairman Crate referred to a letter from Ernie at the Department of Public Safety. There was no immediacy concerning the topic for years until the current time. Acting Chairman Crate said his intent was to mention what he remembered from previous discussions, and he was not necessarily trying to link the extradition/transportation issue with that of prison employees. Ms. Livermore said she was present to clarify any questions that may arise. Acting Chairman Crate asked if anyone objected to the use of licensed, bonded companies for extradition transportation purposes. Ms. Livermore said she wouldn't object to licensure, for the record, but was concerned that if all companies needed licensure, they would be unavailable to provide a valuable service. She reiterated that it was more economical to use private transportation companies for extraditions, as opposed to sending two deputies to perform the same function at a far greater expense. Acting Chairman Crate asked Ms. Livermore about the welfare of Nevada citizens. Ms. Livermore agreed that the transportation company employees should be thoroughly screened. Acting Chairman Crate again mentioned Ernie's letter, which noted a regulation of the US Department of Justice. Ms. Livermore was not familiar with the chapter. Acting Chairman Crate said it was unknown to what extent the Department of Justice required backgrounds or licensure on the part of transportation companies. Ms. Livermore noted the federal regulation spelled out exactly what was required (hours of experience required, hours of training required, and drug

testing). She referred to Jenna's Law, a federal law enacted in 2003. Acting Chairman Crate didn't know if the law precluded the need for licensure in Nevada. Ms. Livermore didn't know. Board Counsel Menicucci asked if the state had its own requirements for prisoner transportation. Ms. Livermore wasn't certain. She again referred to the cost reasons for using private transportation companies. She felt the employees of the transportation companies were nominated as agents, acting on the behalf of the Extraditions unit for the State of Nevada. They were not considered police officers. She said many of the employees were past peace officers. Board Counsel Menicucci asked for clarification that the extradition involved only the taking of a prisoner from one state and transporting that prisoner to Nevada, and was not intrastate. Ms. Livermore said both interstate and intrastate travel were involved, and she was representing the interstate portion of the issue. Board Member Nadeau said there clearly was a cost benefit to contract with private transportation companies. He asked if RFPs or RFQs were utilized to establish the service and if certain qualifications were required. Ms. Livermore said a committee was in place. Board Member Nadeau asked about the specific RFP and if licensure was required. Ms. Livermore said certain qualifications and guidelines were outlined in the RFP. Board Member Nadeau asked if federal licensure was required in the RFP. Executive Director Ray said there was a section in the RFP that compliance must be made regarding any state or federal regulations. Board Member Nadeau asked if federal licensure was required, and was told it was not. Board Member Nadeau said some companies may meet the criteria, while others may not. He asked if all employees for the private transportation companies were armed and, if so, what gave them that authorization to move from state to state.

Steve Sanzeri said an armed employee must be licensed in any state and hold a guard card, as well as exposed weapons training. He said a person was required to be licensed in one state and then would be able to cross state lines with that one license. He noted that Jenna's Law (2003) clarified federal guidelines (DOJ fingerprints, backgrounds, etc.). He said all agents must be P.O.S.T. trained and certified. Board Member Nadeau asked if Mr. Sanzeri's company was located in Nevada, and he said that was correct, but was not licensed by the PILB. Board Member Nadeau said he knew P.O.S.T did not provide training for non-law enforcement personnel and asked how Mr. Sanzeri would become certified. Mr. Sanzeri said federal guidelines required a P.O.S.T. certificate, and all employees had gone through the training at one time or another. Board Member Nadeau

noted that the certifications expired after a certain length of time. Mr. Sanzeri explained that once a person had taken the initial P.O.S.T. training, that person was not required to take that same training again at the academy. A federal requirement mandated 110 hours of training initially and 40 hours per year thereafter. Board Member Nadeau said he was in favor of the program. His concern was that the state had no specific guidelines with respect to training. Ms. Livermore said the transportation companies would follow Jenna's Law and its requirements. Board Member Nadeau asked if a prisoner could be pursued during transport. Mr. Sanzeri said the transportation company employees would perform a citizen's arrest under 832 and could cross state lines. Board Member Putnam stated that the transportation company employees were not sworn by the federal government. Mr. Sanzeri agreed. Board Member Willis asked Board Counsel Menicucci if he had seen the federal regulations. Board Counsel Menicucci said he had not, but would do so, and would research interstate commerce and federal pre-emption as well. Roberto Salgado said all agents were P.O.S.T. certified in California, Nevada, or Florida. All had law enforcement experience and mandatory training was in place. A total of 110 hours of mandatory retraining was required by the company before going to work. Even though the employees were not law enforcement or sworn, the training remained current. He said the cumulative experience of 5 employees was 120 years. Acting Chairman Crate noted the requirement was unique to American Extraditions Specialists. Mr. Salgado said the company would not hire a person without at least 3 years of military, corrections, or police training. Acting Chairman Crate said competitors may not have the same standards. Mr. Salgado said he was fairly certain that the other companies did follow similar standards. Mr. Salgado said the company chose Nevada because of the rapid growth. He said the company followed all federal guidelines. There were only a few private transportation companies in business at the current time. Marcy Troescher said the contract was for 4 years and no contracts were currently out for bid. An RFP went out last year and currently 4 companies were under contract.

Mr. Sanzeri said he was the CEO of American Expeditions Specialists. He discussed the guidelines again. A DAG at the Attorney General's office signed the contract April 8, 2008. He had no problem with following state requirements with regards to background checks of employees, but did have a concern with becoming licensed as a Private Patrol company. The company could potentially be put out of business if such licensure became a

requirement and the company encountered a problem during the licensing process, even though a signed contract was in place.

Acting Chairman Crate asked if the company had been told to research the requirements of the PILB while it was in the formative stages. Mr. Sanzeri said absolutely not. Mr. Sanzeri said he would not qualify as an owner because he only had 7,500 hours of experience. Board Member Nadeau said it was not the Board's intent to put anyone out of business, but the focus was public safety. He asked if any disqualifiers were in place based on an individual's record. Mr. Sanzeri said former felons and those with misdemeanors (spousal abuse and/or weapons) were disqualified. The company had disqualified former law enforcement personnel in the past from becoming employed. The backgrounds were extensive for potential employees. Board Counsel Menicucci asked Mr. Sanzeri if he had not received oral or written statements from anyone on the topic of licensure. Mr. Sanzeri said not until the last meeting. Acting Chairman Crate asked Executive Director Ray how the topic had been brought to her attention. She said Ms. Livermore and she had discussed the issue over the years. She believed she had spoken to Mr. Sanzeri via telephone and he had received an application. Mr. Sanzeri said the issue arose during firearms training, which occurred before meeting with Executive Director Ray. Marcy Troescher noted that the contract was already signed, and Executive Director Ray said she was aware of that. Executive Director Ray said the contract was unique as the company was located in Nevada. Board Counsel Menicucci said he was likely the one who signed the contract. He did not recall the precise contract, but standard contracts include the obligation to have all necessary licenses and permits. He said there was probably nothing specific addressing licensing by the Board, but the general requirement was to be properly licensed. Board Member Crate said the Board should decide whether or not licensing was required.

Board Member Nadeau read the definition of private patrolman. He felt there was some potential that the issue came under the authority of the Board. He said the federal guidelines and Jenna's Law 2003 should be reviewed to see if federal exemptions were in place. Acting Chairman Crate said, regardless of what was being transported, there was not much difference between private transportation companies and armored car transport. He noted the requirement for weapons training and the need for a qualifying agent. Executive Director Ray said armored car companies who worked in Nevada were licensed, and not those that came to Nevada to

make a delivery and leave immediately. She said if the company not only delivered a shipment, but also remained to provide security for the shipment, a license was required by the PILB. Companies that were physically located in Nevada were also required to be licensed. Board Counsel Menicucci noted the reciprocity issue, as well as interstate commerce. Board Member Putnam asked if it was appropriate to ask for an opinion from the Attorney General. Acting Chairman Crate said it was appropriate, but premature. He noted no one on the Board was familiar with Jenna's Law. Board Counsel Menicucci recommended deferment of the issue to the next meeting to allow for further research. Acting Chairman Crate said, for the record, American Extraditions Specialists were not precluded from fulfilling their contractual obligations. The issue was similar to that of the armored car industry and should have some form of oversight. Board Member Nadeau said there was clearly no intent to perform unlicensed activity. Other companies in existence should be examined for licensure requirements. Board Member Willis agreed that more research on the part of staff and the Attorney General's office was necessary.

Mr. Sanzeri made his closing comments. He said the Board should determine if out-of-state companies also should comply with Nevada requirements. He welcomed competition, but felt some companies may have some negative information in their background information. Ms. Livermore said the transportation companies were required to file incident reports with the state, even if another jurisdiction was involved. There was a window of 24 to 48 hours to report incidences. She clarified that she was only notified if an incident occurred with a Nevada inmate, not those of other jurisdictions. Acting Chairman Crate said more research was needed on Jenna's Law and Title 42 (he referred to Ernie's letter once more). He asked Board Counsel Menicucci to research the matter and offer guidance, short of requesting an opinion. Acting Chairman Crate asked if a motion could be made to that effect. Board Member Putnam made the motion, which was seconded by Board Member Willis and passed.

Item 9 concerned two amendments to NRS 648 offered by the Nevada Society of Professional Investigators for the requirements to be a Private Investigator and to replace the Polygraph Examiner position on the Board with a

dually-licensed individual. Acting Chairman Crate noted that the Board could not act on either request, as they required statutory changes.

Mr. Maheu said his group wanted to learn if the Board would be in agreement or not oppose the topics. The issue regarding requirements to obtain a Private Investigator license arose when individuals were granted the license by the Board in the past for work done as pit clerks and similar work. He said many people had been licensed who did not possess the proper qualifications. There were certain things an investigator should know in order to be licensed. The activities of Private Investigators should be clarified for the 10,000 hours of required experience. Acting Chairman Crate offered the example of an applicant who retired with 22 years of fire investigation with a metropolitan fire department. Mr. Maheu said that person would meet the qualifications. Acting Chairman Crate asked about Section F. Board Member Crate said that performing fire investigations would not necessarily entail what was listed under Section F. Mr. Kirkman said any investigation involved interviewing people. Board Member Crate provided the scenario of an arson investigator with 10-12 years of experience, with 6 of those years primarily under B. Mr. Kirkman said the emphasis under B was at least 6,000 hours as a minimum. Acting Chairman Crate noted that a majority of the activity could fall under F. Mr. Kirkman said a quarter of that person's time involved interviews and follow-up work. Mr. Maheu said arson investigation involved witness interviews and the like. He said the point was not invalid. Acting Chairman Crate said the resolution of one problem would hopefully not create another one. Mr. Maheu said the intent was to clarify qualifications NSPI felt should be necessary to receive a Private Investigator license. Acting Chairman Crate asked if the group felt Computer Forensic Specialists should not hold Private Investigator licenses. Mr. Maheu said that was an entirely separate issue. Mr. Kirkman said his position on Computer Forensic Examiner/Investigators was that if only forensics were performed with no follow up work, a license should not be required. If the examiner saw a reason to follow up and did proceed with the interview process, then a license would be needed. Board Member Willis asked if there would be a consideration for Computer Forensic Examiner/Investigators in the recommendations of the NSPI. Mr. Kirkman said that was a possibility and Mr. Maheu said nothing was written in stone.

Mr. Kirkman said Computer Forensic Examiner/Investigator would need to be addressed in the near future. It was a new discipline in the field of investigation. Board Member Crate noted the ability to change statutes to have qualifications approved always entailed the 2-year timeframe of the legislature. He said it was almost too restrictive. Mr. Kirkman asked if the new area could be amended under NAC 648. Board Member Nadeau said not statutorily. He asked about the language of “A or B or C” and asked about the possibility of allowing for a combination of experience from more than one category. Mr. Kirkman said that was a great idea. Board Member Putnam said he also had the same question when perusing the information. He said the usage of the word “or” was inappropriate. Mr. Maheu said the verbiage regarding 2 years and 4,000 hours could be removed. Board Member Crate stated that the intent of the group was a minimum of 6,000 hours. Mr. Maheu said 4,000 hours in any category was recommended. Board Member Nadeau said the 6,000 would be gained as a generalist. He said the group was seeking 3 years of general investigative experience and then other disciplines could be added as further experience hours. Mr. Kirkman said the wording could be rewritten. Board Member Putnam commented on the suggestion to modify NRS 648.030 and the fact that one of the paragraphs contradicted the other. He said if the Board could make changes, there was no need to change the law. Mr. Maheu said there was a conflict because of the way it was written. He said NRS 648.110 should be omitted or changed. He said NSPI did not write the law. He noted Acting Chairman Crate had a good understanding of the issue. Mr. Kirkman said the verbiage should be rewritten. Mr. Maheu said it would be better to add the verbiage at the present time and the Computer Forensic Examiner/Investigator issue would need to be addressed. Board Member Nadeau asked about Section F of 648.110 under 2, which dealt with credit for degrees. He asked how that would fit into the NSPI issue. Acting Chairman Crate said the educational degree was currently applied at the applicant’s discretion and would most likely be applied toward the 6,000 hours. Both Mr. Maheu and Mr. Kirkman said they were comfortable with that assessment. Board Member Willis said she would like to see the points just discussed brought back to the Board in December 2008 meeting in a new draft. Acting Chairman Crate said a motion was not necessary or appropriate. Mr. Maheu said the language would be rewritten and brought back to the Board at the December 2008 meeting and also planned to testify before the legislature. Board Counsel Menicucci said he was unclear as to the intent to seek legislative changes. He said it was likely that Mr. Kirkman

and Mr. Maheu could go to the legislature and wanted to know if they wanted the Board to support them. He also noted the question was raised whether or not the Board had the authority to make regulations on the subject. He said the scope for making additional licensure requirements was not entirely clear. Acting Chairman Crate said it was his understanding that the dictates of the statutes must be statutorily changed and the Board could set qualifications, so long as they did not contradict the statutes. He said it was the intent of Mr. Kirkman and Mr. Maheu to move forward. He said the best course for the Board was to offer a lack of opposition and was not comfortable supporting language that could restrict the granting of licenses. He said the concept was good. Board Counsel Menicucci said the Board would seek to follow and perhaps comment if brought before the legislature. He agreed with Acting Chairman Crate's concerns. He said the proposals offered sounded as though the duties of investigators were being forced into the mode of interviewing witnesses. Mr. Maheu said the intent of the proposal was made because school crossing guards or pit clerks should not be granted Private Investigator licenses, which had occurred with past Boards. He said he was proud of the Private Investigator field and its work and wanted regulations similar to those of attorneys. He wished to protect the profession. The second topic under Item 9 was addressed. Acting Chairman Crate said he found the topic distasteful. Mr. Maheu said he respected Board Member Putnam's integrity greatly and did not wish to remove him from the Board. Acting Chairman Crate said a balance was intended by statute, and was not implying that personality issues were involved in his objection. He noted the Attorney General had removed herself as Board Chair recently. Mr. Maheu said there were only 10 licensed Polygraph Examiners, 1 intern, and only 4 Polygraph Examiner Licenses had been granted during the last 4 years in the state, which meant there was not a real representation of the industry. He suggested the Board member should be dually licensed, but was not suggesting which two licenses should be held by the Board member. Mr. Kirkman agreed that the representation on the Board was disproportionate and that polygraphs had decreased in use over the years. Each Board member represented 20% of the Board, while only 2% of the licensees (10 people) were Polygraph Examiners in the state. He said a dually-licensed individual would provide better representation. Board Member Crate said he wished to rescind his introduction, but noted all Board members represent the public 100% and weren't on the Board to represent his or her area of interest in the industry. Any citizen could potentially be given a polygraph

test. Mr. Maheu asked why Canine Handlers were not represented on the Board. Board Member Crate said that was a question that the legislature would need to answer. Board Member Willis asked Executive Director Ray if any of the Polygraph Examiner Licensees also held other licenses. Executive Director Ray said she had anticipated the question and was attempting to find it on the website momentarily. Board Member Putnam said he concurred strongly with Acting Chairman Crate's remarks that the Board represented the people of Nevada and not the particular industries. He also felt Polygraph Examiners should have a representative on the Board to provide meaningful comments on the qualifications of those who applied for that particular license to protect the public. He said he intended to apply for a second license in the near future. He commented that Voice Stress Analysis was an issue that required a Board member with knowledge to aid in the discussion.

Board Member Nadeau said he would like to see the legislative history on the make-up of the Board. He was not amenable to remove the Polygraph Examiner Licensee from the board. He was referring to the position and not a particular person. Mr. Maheu said no one was suggesting that Polygraph Examiner needed to be removed from the Board, but were suggesting a dual license be in place. Board Member Nadeau said a legislative change could potentially remove Polygraph Examiner from the Board. Mr. Maheu said Board Member Nadeau was contradicting Acting Chairman Crate's statement about each Board member representing 100% of the state. Board Member Nadeau said he was an "at large" Board member and deferred to the expertise of the other Board members in his or her field. He was not against the idea, but would need a bit of convincing and education to come to a decision. He would like to know the legislature's reason for the types of Board members it had chosen in the past. Mr. Maheu asked if the Board would be more comfortable with a dually-individual who was Private Investigator/Polygraph Examiner licensed. Acting Chairman Crate asked if Mr. Maheu was comfortable with someone licensed as a Polygraph Examiner/Private Patrolman. Mr. Maheu agreed. Board Member Willis again asked Executive Director Ray if anyone held dual licenses. Executive Director Ray said there were no Polygraph Examiner/Private Patrolman licensees. She said there were perhaps 3 Polygraph Examiner licensees also licensed as Private Investigators. She said several held 3 licenses (Private Investigator license, Process Server license, and Private Patrol license). One person held 4 licenses. She could not give an accurate account because there was no internet connection. She said the most common dual status was Private Investigator

license/Private Patrol license, along with Private Investigator license/Process Server license. Acting Chairman Crate noted the figure was probably less than a dozen for Polygraph Examiner Licensees who also held another license. She said the figure she gave for Polygraph Examiner licensees was accurate. Mr. Maheu thanked the Board. He also thanked Colin Murphy for his training presentation.

Item 10 was a report from staff involving the newly approved Private Investigator licensing exam. Executive Director Ray said 3 people volunteered to take the exam. More individuals had volunteered, but were unable to take the test due to scheduling conflicts. She said those who took the test reported it was difficult. They had not studied for the test. The comments included that there were quite a number of questions that dealt with evidence, perhaps too many. The test was comprised of 148 questions and took approximately 1 ½ hours to complete. Her recommendation was to remove 2 sections of questions, 13 which dealt with one topic and 26 that dealt with another topic. She attempted to find study materials and resource books, which were rather expensive for the amount of questions on each topic. The removal of those questions and the addition of one more question from one of the existing topics would yield 100 questions for the exam. The breakdown was 7 questions dealing with experience, 30 regarding statutory and regulatory issues (NRS 648 and NAC 648), and 52 questions about criminal evidence (which had a study guide readily available for \$15.00). Some of Executive Director Ray's questions concerned the discussion about NRS 648 and NAC 648 should be passed with 100%. Acting Chairman Crate asked if any of the three test-takers scored 100% on the NRS portion, and Executive Director Ray said they did not. Executive Director Ray said two of the testers did not want their tests graded. The one tester answered 90 of the 148 correctly, without studying. He commented that the exam was good and, if his livelihood depended on the score, he would have worked very hard to achieve a passing score. Executive Director Ray said she would like to move forward with finalizing the exam. The next exam was scheduled for January 2009 and she would like to use the new exam during the April 2009 applicant testing. She noted permission had already been granted by the Board to utilize the new PI test and continue to move forward with professional testing programs. She would like to utilize professional testing centers to administer and proxy the exams on behalf of the PILB. Acting Chairman Crate asked Mr. Maheu if anyone from his group took the new test. Mr. Maheu said he wasn't aware of anyone. He was quite comfortable with the work Executive Director Ray

was performing regarding updating the exams. Executive Director Ray said two or three individuals were still interested in taking the exam, and could possibly take the 100-question exam. She felt there were enough questions to comprise three separate tests for the Private Investigator license applicants. She was not requesting action or a motion, as she had been given all approvals necessary to move forward with the exams. Board Member Willis and Board Member Nadeau could not take part in voting on the matter. Board Counsel Menicucci said the discussion should be considered informational only. Acting Chairman Crate reiterated that Executive Director Ray had all approvals in place to continue with the process. Executive Director Ray offered to revisit the issue at the December 2008 meeting as an informational agenda topic. Board Member Putnam asked about the Polygraph Examiner License applicant exam. Executive Director Ray said that exam was already completed.

Item 11 involved an update by Investigator Murphy on his recent training for licensees and key employees. Acting Chairman Crate congratulated Investigator Murphy on the success of the training meetings in both Las Vegas and Carson City. The training was held in Las Vegas on October 13, 2008 and in Carson City on October 20, 2008. A total of 121 people attended the two training sessions, with 87 in Las Vegas and 34 in Carson City. There were 57 cancellations/no-shows. He received 109 evaluations from the attendees. None rated the training as poor. Investigator Murphy read the training outline to the group. The training included statutory requirements in NRS 648 and NAC 648 for processes all licensees must follow, such as the hiring of employees, work card issues, insurance requirements, fines, documents to include in each employee file, and quarterly reports. He also directed the attendees to use the PILB website for information and e-mail contacts. He provided a handout to each attendee with the information presented at the training. Acting Chairman Crate asked if Investigator Murphy would provide a certificate of attendance for the training. Investigator Murphy said that was an excellent idea and he would do so. Board Member Putnam attended the training and was very favorably impressed. Executive Director Ray said the training program was long overdue and had been very successful. She noted that people were pleased with the training and she thanked Mr. Murphy. Investigator Murphy said the training was a work in progress and he had already made a few changes/updates. Acting Chairman Crate asked if Investigator Murphy noticed any statutory requirements of which licensees were unaware until attending the

training. Investigator Murphy said the biggest issue was the statutory requirement that the license number must be used/displayed in all forms of advertising, business cards, vehicles, and the like. He noted that some people were not separating the employee registration process from the quarterly reports. Acting Chairman Crate asked about the utilization of GL Suite for employee registrations and quarterly reporting. Executive Director Ray said she would address his question during the next agenda item. Acting Chairman Crate said Item 14 and Item 15 were both continued.

Item 12 was a presentation by Executive Director Ray to possibly amend NRS 648 regarding the issuance of work cards, registering of employees, fee payments, quarterly reporting, new hires and terminations, and to allow the PILB to administer work cards for all licensee employees. Executive Director Ray presented a Power Point presentation. She said the topic had been discussed previously, particularly concerning the work card issue. She noted her presentation would show the statues which would need to be changed to take over work card issuance, proposed language changes, a new process for registered employees, fingerprinting process, temporary registration, denial criteria, appeals, and the advantages of the changes for the Board and the licensees. She read NRS 648.060 (2) and presented the proposed changes to have work cards issued by the PILB and not the sheriffs. She read NRS 648.203 in its current form and explained that the areas shown in yellow in her presentation were proposed changes. She said there was much confusion when a licensee went to Metro to obtain forms. Licensees/Qualifying Agents are not required to hold a work card. Most of the changes involved removing the reference to the sheriff from the statutes and replacing with the Private Investigators Licensing Board for the State of Nevada and the removal of the reference to independent contractor. Board Counsel Menicucci asked if the phrase "where work is to be performed" should be removed, and Executive Director Ray said it should if the Board would issue the work cards. Board Member Nadeau asked if Executive Director Ray would like to allow the work to be performed by a designee or contractor, but she said she did not. She was primarily concerned with changing the existing language. A grandfather clause would be in place for current work cards. Board Member Nadeau said the PILB would be the ultimate authority. Acting Chairman Crate said, if the work became overwhelming, Executive Director Ray may want to sub-contract the work at a future point. She said that was a possibility. She asked the Board to make any recommendations or suggestions

on any of the information on the slides she presented. The yellow highlighted sections were proposed amendments. She discussed her ideas for the registration process and suggested changing the terminology from unlicensed employee to registered employee. A big change would involve temporary registrations. The employees would make application to the Board and not the individual licensees. She read the plans for the registration process as shown on her Power Point presentation. She wanted to update the employee changes (hiring and terminations) reporting. She discussed employees who were already registered and the process she had developed. GL Suite would be used heavily in the process. She also spoke about work card denials. Acting Chairman Crate asked about denials shown on GL Suite. Executive Director Ray said that it would show if they were denied, but the reason would not be public information. She said some entities (Washoe County, Gaming) allowed a person to reapply 5 years later for a work card if denied for reasons that did not involve felonies. Many steps needed to be considered in the process. She gave her plans for the processes for renewals and new applicants with respect to fingerprinting, photos, and other necessary forms and fees. Her vision for the planned changes was for improved licensing management functions, applicant monitoring, reporting capabilities for the licensees, the removal of the middle man (law enforcement) and removing the need for quarterly reporting with more responsibility on the part of the licensees. She discussed the fiscal impact with the loss of the \$8.50 registration fee and the new fees she envisioned. Two new administrative employees would be housed in Las Vegas, which would require new office space separate from 555 E Washington. She gave the total of 3,746 first-time registrations of employees between February 28, 2008 and October 2008, which represented \$39,595. She explained the new system for this type of employees. She calculated the fees that could have been collected for the same number of employees under the proposed system. Acting Chairman Crate asked Executive Director Ray if the new fee schedule would cover costs, and she said she believed it would. Acting Chairman Crate said the revenue would cover the overhead costs, and Executive Director Ray again agreed. Executive Director Ray explained that GL Suite was already in place and would provide the ability to proceed with the proposed changes. Acting Chairman Crate asked how many total employees were calculated in the database. Executive Director Ray said 1,500 were already in the system. Acting Chairman Crate asked about the grandfathering clause and asked if approximately 1,500 would be added per year until everyone was on the new work card

system. Executive Director Ray said the amount would probably be higher. There were probably 27,000 to 32,000 active registered employees in the database. There were approximately 66,000 names in the database, made up of both active and terminated employees. Acting Chairman Crate said that 9,000-10,000 employee registrations would be handled each year. Executive Director Ray agreed and said that total was similar to what staff was already processing each year. She said she could give a more detailed breakdown of figures for the Board for total registrations. An employee could very well be counted more than one time, if that person worked for several licensees. The database was formerly Access, which counted each record individually. When the database was converted to GL Suite, the records were not counted in that manner. Acting Chairman Crate asked for an estimate how many individual registered employees were currently active, not counting a person working for multiple licensees. The figure given was 25,000. Board Member Nadeau asked if the work cards were valid for 5 years, and Executive Director Ray said that was correct. Executive Director Ray said there was no statutory requirement for work cards, so some employees in various counties had no background checks performed at all. The work cards would be uniform and valid statewide. Board Member Nadeau asked about the central repository. Executive Director Ray said the fingerprinting process gave the option of going to local law enforcement or utilizing a private company. The PILB could contract with a company and the receipt could be used as proof. Executive Director Ray said the turn-around time was not as long as in the past, at basically 6 weeks. Board Member Nadeau asked about temporary work cards for that 6-week period. Executive Director Ray would prefer not to issue temporary work cards, but knew they were necessary. An employee's temporary work card could be revoked if the background check warranted that action. She said an employee would be registered once the fingerprinting and background check was completed with no adverse information. Executive Director Ray gave the pros and cons for the new plan for work cards. Five years for the validity of work cards made more sense than three-year work cards. The process would allow for checks and balances to protect the public. There would be a uniform appeal process. The process would be streamlined and there would not be a problem with a refusal by a sheriff of a metropolitan force to produce work cards for individuals not working in a specific county as had occurred in the past. She said the counties would no longer be used as an employee screening service. The cost would not be much different from current fees. The employee would be able to work

immediately. She again stated her opposition to produce temporary work cards. The exam for the employees could be administered online. Metro would likely oppose the idea. She said, though the law enforcement agencies complain about the issue, the process shows as revenue on the books, though it is actually a break-even situation. She said staff could handle the added work, as it would not be much more than the current workload. She summarized the plan. She had already completed a Bill Draft Request (BDR), which would not be issued by the LCB. The responsibility of obtaining a sponsor was the Board's responsibility. The following tasks would need to be accomplished: a meeting planned with the legislature to garner support, complete the draft of an appeal process, complete the draft criteria for denial, and discuss Plan B. Executive Director Ray had collected information from Gaming which addressed how they handle the appeal process and reworked the wording to apply to the Board. She had also reviewed Washoe County ordinances for denials. She had gathered definitions of moral turpitude. She said if the legislature did not approve the Board's ability to issue work cards, Plan B would be to implement some of the changes regarding licensee registrations and reporting issues. Executive Director Ray asked if the Board wanted to move forward with introducing the legislation, if it was comfortable with the \$125 fee, if a cap should be placed in the statute and place the current fee in the regulations, if the Board favored removing the requirement for quarterly reports (changing to a monthly new hire report and a quarterly termination report), if the Board was comfortable placing more responsibility on each licensee for reporting, and if the work card should be valid for 3 years or 5 years.

Acting Chairman Crate said the Board wished to move forward with the plan. He said a possible cap could be \$135. He asked about the quarterly report change proposed. He said the reports should be kept current because of the 10-day rule. He asked why monthly or quarterly reports were necessary at all. Executive Director Ray said she was comfortable with the idea. She wanted the licensees to be accountable and would need to follow the requirements in the auditing process. Acting Chairman Crate said the reports were redundant. The data was readily available and subject to auditing. He said the work cards should be valid for 5 years. Board Member Nadeau asked if the plan had been offered for industry comment. Executive Director Ray said that was not necessary, as the topic had been discussed at several Board meetings. Executive Director Ray said Mr. Maheu had called her the day before to ask about the agenda item and had not offered any criticism. Board Member

Nadeau asked for clarification on which specific issues were statutory and which were regulatory. Executive Director Ray said the statutory items were quarterly report and 10-day requirements. Acting Chairman Crate said the main point with which he was uncomfortable was the temporary status of an employee without any indication that any check on an employee had been performed. Executive Director Ray clarified the issue by saying each application would be reviewed. If the employee was honest and reported any reason that would cause an automatic denial, no temporary registration would be issued. She said other resources, such as SCOPE, were available as preliminary checks before moving forward with a registration. Board Member Nadeau asked about outside contractors. Executive Director Ray said the registration application would come to the PILB first. She explained the process that an application would be received and a completed questionnaire, the fingerprint cards or receipts, a completed application, SCOPE could be run (southern part of Nevada), and then the person would be temporarily registered if there wasn't a reason to deny the registration. Acting Chairman Crate said he would be more comfortable with an initial criminal history check before temporary status was granted. Board Member Nadeau said only SCOPE and a wants and warrants could be checked on a civil inquiry. He said the legislature may be wary of the temporary permit status issue and Executive Director Ray said she would be fine with that. Acting Chairman Crate said a fall-back position could be that a mechanism needed to be created that a designated representative could run LiveScan. Board Member Nadeau said he had been told for 3 years that automation on fingerprints was eminent. He said statutory requirements were that the Central Repository must handle all fingerprinting checks, but it needed to improve its automation. Acting Chairman Crate said the fingerprinting process could create a potential roadblock. Board Member Willis agreed with Board Member Nadeau that civilians could not follow the same process as people going through criminal procedures. She said revenue was not an issue with Metro, as the money brought in never paid for the operation. She said the main objection was the loss of control. Executive Director Ray said she had been told by Metro that the issuance of work cards involved a Homeland Security issue. Acting Chairman Crate said the Board could argue that it could be more responsive to Homeland Security concerns than Metro. Board Member Willis gave an example of appeals and denials. She said an applicant from the city had an appeal hearing with the city council, and the county commissioner heard an appeal for a county employee. She said Metro made a presentation to the

Boards and denied work card denials were not currently brought before the PILB. She said she was merely stating the situation. Board Member Nadeau said the Sheriffs and Chiefs Association should consider the matter. Board Member Willis agreed. Any anticipated problems could be remedied before taking the issue to the legislature. Board Member Nadeau said he had no problem with finding a placeholder and creating a BDR. Executive Director Ray said the Commerce Committee would be contacted. Board Member Nadeau said Senator Carlton would need to be contacted. Acting Chairman Crate said the worst case scenario would be to drop the entire issue and the best case scenario would be to move forward. He asked Executive Director Ray for a timeframe on a BDR submission. Executive Director Ray said she needed to meet with Senator Carlton and Frank Adams of the Sheriffs and Chiefs Association. She wanted to finalize the language. Acting Chairman Crate asked about the BDR and that the LCB wouldn't provide that. She explained that Elaine Trent had received an e-mail stating no action would be taken, but had not received an explanation as requested. Board Counsel Menicucci asked if Executive Director Ray knew the amount of appeals that would need to be processed as a result of the plan. Executive Director Ray said there were few. Acting Chairman Crate said the process could be structured to cause virtually no appeals. Washoe County had more appeals due to denials with DUI problems, which were local ordinance requirements. Executive Director Ray said a DUI would disallow a work card in Washoe County, but not Clark County. Acting Chairman Crate said he never had heard a denial by Clark County other than for PILB criterion. Executive Director Ray explained that Gaming had an appeal process in place whereby staff could deny a work card for statutory or felony reasons. Executive Director Ray said that moral turpitude should have a good definition. She said few appeals should be forthcoming.

Item 13 was a discussion of exam cards by John Theel, SOA, #525.

Mr. Theel had an issue with the proof of test card issue. He said it had become burdensome on his staff as well as the PILB staff. He was statutorily required to administer the 22-question test to all guards before obtaining a sheriff's card. He disagreed with the need for each guard to carry the proof of test card on his or her person at all times, particularly when working. He also complained about the replacement fee that had recently been implemented by the Board. He said there was no statutory or regulatory requirement which stated the card must be carried at all times, but was a staff requirement. He said the investigators demanded to see the card at a job.

He asked why so much effort was put into the card when there was a statutory requirement that the test be administered to all employees.

Executive Director Ray read NAC 648.343(3). She explained the registration forms were triplicate in the past. The requirement was that the licensee had to distribute the blue form to each employee to be carried at all times. The forms became impossible to read after being kept in a wallet for a period of time. Acting Chairman Crate said the need for the third form was for proof of the exam for the employee for subsequent employers. Executive Director Ray said a violation was put in place if the employee was not carrying the proof of test card. Mr. Theel said the only place he had seen stating the card must be carried by employees was in the PILB newsletter. He did not object to the issuance of the card, just the requirement that the card must be carried at all times. Acting Chairman Crate said the test validity was previously 24 months and was changed to 60 months. He agreed it was redundant. Executive Director Ray asked Mr. Theel if he administered the test before sending the employees to obtain work cards. He said that was correct and she said that was a rare occurrence. Acting Chairman Crate said there would be a greater problem with an employee sent to obtain a work card prior to the test. Executive Director Ray said she assumed the common practice was getting the work card first and then the test was administered. She had based her thoughts on comments made by Metro and the fact that licensees often used them as a screening tool. Acting Chairman Crate said he could see that practice occurring. The Board could not regulate the order of obtaining work cards and administering test. Executive Director Ray planned to implement changes even if the work card issue did not move forward legislatively. She said the management on the part of the licensee could allow for stopping the requirement. The audit process asked for proof of exam cards. Acting Chairman Crate said he spoke to Investigator Murphy. Investigator Murphy noted that some employees left employment before the proof of test card was received and the licensees often did not forward it. He said the date of the test could be entered in the GL Suite registration. Executive Director Ray said the information could be made available to the licensees. She agreed with Mr. Theel's comments. Board Counsel Menicucci asked what information would be available to the investigator other than the card. She said employees often left employment with one company and immediately began working for another and the original proof of test card was sent to the first company. She noted some employees were unaware of the test when

asked to produce the card. Acting Chairman Crate said it should be self-evident with the issuance of a work card, which should not be obtained without passing the exam. He agreed that it was sometimes impossible for a guard to produce the proof of test card when it was never received. Executive Director Ray said and was well aware the cards themselves did not actually last for 5 years.

Investigator Murphy said, during his brief time with the Board, probably 80% of the guards he asked to show him the card during compliance checks did not have the card with them. He said during a recent compliance check, 4 out of 5 people were completely unaware of the 22-question exam, which was a red flag for him to audit that company. He had yet to encounter an employee without a work card. Acting Chairman Crate said it was his personal experience as an employer that most of the employees carrying the proof of test card didn't even know why they had the card. He noted the improper practice of some employers asking new employees to sign a completed answer sheet during the employment process. Investigator Murphy, during the training course, underscored the importance to licensees that the exam was to provide a basic understanding of Nevada laws to new employees. Executive Director Ray said the implementation of the new registration process could allow for changes in the administration of the 22 question exam, such as open-book testing. There were currently no rules or guidelines on the test administration. She said the exam should be part of the new-hire packet. Her ultimate goal was online testing. Acting Chairman Crate did not have a problem with the re-administration of the exam to a new employee who may have taken it in the past with a previous employer. Mr. Theel said it was the procedure of his company to automatically administer the test to all new employees. He said companies should be fined for not following statutory procedures. He again noted the request to produce the proof of test card to Board staff was not a statutory requirement. Acting Chairman Crate asked Mr. Theel if he had received a citation regarding the proof of test card issue. Mr. Theel said Executive Director Ray sent letters regarding staff compliance checks at particular events and outlined the discrepancies. Mr. Theel said the Board had begun charging \$5.00 to re-issue proof of test cards. He said he would no longer pay to have the cards re-issued to employees, as it was not a statutory requirement to carry or show them to Board staff. Mr. Theel said proof the exam was administered (completed test answer sheet) was kept in each employee file. Executive Director Ray clarified that the replacement fee was \$2.50, not \$5.00. She agreed that the system was not perfect and there

was a lag time between the registration of an employee and the receipt of the proof of test card by that employee. She did not believe anyone had been issued a violation on the issue. Acting Chairman Crate asked if Executive Director Ray expected any action on the part of licensees to answer the letters they received after compliance checks were done. Executive Director Ray explained reports were sent to licensees from compliance checks even if all areas were perfect and no response was required. Mr. Theel said he always followed the rules, but couldn't find a statutory reason the card had to be carried on an employee's person. Executive Director Ray said she could find no requirement in the regulation about the need of each employee to carry the card. It most likely evolved when the Board was attempting to amend regulations for purposes of notices of violations. She said that particular section may need to be repealed if the Board had no authority to levy violations for not producing the proof of test cards when asked by Board staff. She said the card was mostly a form of information for staff that the employees had either taken the test and had the card or if some employees had no knowledge of the test, a red flag for the need of an audit. Mr. Theel said, if the new system for registration was implemented, the issue would correct itself. Executive Director Ray agreed. Acting Chairman Crate suggested that staff would prefer the proof of test cards would be carried by the employees. He noted staff could readily cross-reference whether or not employees had taken the test or not. Executive Director Ray said her follow-up letters specifically state how and when to contact her. If follow-up is needed, the letter addresses that fact.

Item 16 was Board Comment. Board Member Putnam said he had listened to KOH that morning, which reported the arrests of members of the Mongols. He said that lie detector tests had been administered to some of the people. He said he would like to learn what equipment was used, who conducted the test, and if the tests were done in Nevada. Board Member Putnam said the tests were given to prospective members.

Item 17 was future agenda items. Executive Director Ray said the continued items from this meeting would appear, as well as an update on the matter from the September Board meeting regarding internal workplace investigations.

Item 18 was public comment. There was none.

Board Member Putnam moved to adjourn and Board Member Willis seconded the motion, which passed.