

# **STATE OF LOUISIANA**

## **OFFICE OF STATE INSPECTOR GENERAL**



### **LOUISIANA STATE BOARD OF PRIVATE SECURITY EXAMINERS**

**Date Released:**

**August 23, 2006**

**File No. 1-06-0017**

# STATE OF LOUISIANA

## OFFICE OF STATE INSPECTOR GENERAL



## LOUISIANA STATE BOARD OF PRIVATE SECURITY EXAMINERS

**Sharon B. Robinson, CPA  
State Inspector General**

A handwritten signature in black ink, appearing to be "K. Blanco", written over a horizontal line.

**Approved by:  
Governor Kathleen Babineaux Blanco**

**June 23, 2006**

**File No. 1-06-0017**

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KATHLEEN BABINEAUX BLANCO  
GOVERNOR

JERRY LUKE LEBLANC  
COMMISSIONER OF ADMINISTRATION

June 23, 2006

Honorable Kathleen Babineaux Blanco  
Governor of the State of Louisiana  
P.O. Box 94004  
Baton Rouge, LA 70804-9004

Re: Case No. 1-06-0017

Dear Governor Blanco:

This report addresses concerns raised about the operations of the Louisiana State Board of Private Security Examiners following Hurricane Katrina. The report includes one recommendation that, if implemented, could prepare the Board in the event of future emergencies.

The report also includes a second recommendation. However, this recommendation was resolved with the passing of House Bill 841 into law as Act No. 206 of 2006.

We provided drafts of the report to the Board's chairman and executive secretary. Their written response is included as Appendix A.

Respectfully submitted,

A handwritten signature in cursive script that reads "Sharon B. Robinson".

Sharon B. Robinson, CPA  
State Inspector General

SBR/cs

Enclosure

## **Executive Summary**

### **Audit Initiation**

On February 15, 2006, the Office of State Inspector General began investigating a complaint against the board chairman of the Louisiana State Board of Private Security Examiners (BPSE). The complaint alleges the chairman contracted with an unlicensed out-of-state private security company to provide security services within the state in violation of state law. According to the complaint, the alleged event took place following Hurricane Katrina.

Our audit objective was to ensure that the Board and its staff complied with licensing procedures required by state law following the storm.

### **Summary of Findings**

Following Hurricane Katrina, Mr. Wayne Rogillio, BPSE executive secretary, and Mr. Louis Gurvich, Jr., BPSE chairman, improperly allowed unlicensed out-of-state private security companies to operate in Louisiana without either:

- Requiring the companies to apply for a license as required by state law, or
- Obtaining an Executive Order from Governor Blanco authorizing emergency waiver of state licensing requirements for private security companies.



## **Background**

Act 505 of the 1984 Legislative Session created BPSE as an agency of state government in the Department of Public Safety and Corrections. BPSE consists of nine members appointed by the governor and is domiciled in Baton Rouge. BPSE appoints the executive secretary who serves as the chief administrator. BPSE currently has a staff of 12 employees and self-generated budgeted revenues of \$606,700 for fiscal year 2006.

According to LSA-R.S. 37:3274, some of the Board's responsibilities include:

- Examining all applicants to be licensed and regulated;
- Administering examinations for prospective licensees at least twice a year;
- Adopting rules and regulations to govern the practice of private security in Louisiana;
- Issuing, suspending, modifying or revoking licenses or registration cards to provide private security in Louisiana; and
- Investigating alleged violations.

House Bill 841, currently pending the governor's signature, in the 2006 Regular Legislative Session, provides that under certain circumstances when a state of emergency has been declared, the board may authorize the operation of out-of-state private security businesses within the state and use of its employees within the state for the duration of the state of emergency or for a stipulated amount of time after the declaration of the state of emergency, not to exceed thirty days from the last day of the declared state of emergency. The bill requires:

- The private security businesses to be licensed in another state;
- The qualifications, insurance and other similar requirements of the licensing state be equal to Louisiana's; and
- That the BPSE be notified that they intend to operate in the state.



## **Scope and Methodology**

We conducted our audit in accordance with *Principles and Standards for Offices of Inspector General* as promulgated by the Association of Inspectors General.

Our audit scope included reviewing licensing procedures used by BPSE following Hurricane Katrina. In addition, the audit included reviewing two contracts that Mr. Gurvich negotiated with an unlicensed out-of-state security company to provide security services for Louisiana businesses following the storm. The audit covered the period September 2005 through December 2005. Our audit procedures included:

1. Reviewing BPSE licensing procedures required by state law both pre- and post-Hurricane Katrina;
2. Interviewing pertinent individuals with BPSE, an unlicensed contractor, and two Louisiana businesses;
3. Reviewing invoices and other documents, as we considered necessary.



## **Improper Licensing Requirements Waiver**

Following Hurricane Katrina, Mr. Wayne Rogillio, BPSE executive secretary, and Mr. Louis Gurvich, Jr., BPSE chairman, improperly allowed unlicensed out-of-state private security companies to operate in Louisiana without either:

- Requiring the companies to apply for a license as required by state law, or
- Obtaining an Executive Order from Governor Blanco authorizing emergency waiver of state law licensing requirements.

According to LSA-R.S. 37:3276 (F), every person in the private security business shall apply to the board for a license prior to operating a business or soliciting business in Louisiana. Any such person filing a timely application may engage in business pending a final determination of such application. LSA-R.S. 37:3277 A (2), in part, provides that within sixty days after receipt of an application, the board shall either issue a license to the applicant or notify the applicant of a denial of the license application.

LSA-R.S. 29:724 provides, in part, ***that the governor*** by law, may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency (emphasis added).

According to Mr. Rogillio and Ms. Jane Ryland, BPSE administrative supervisor, immediately after Hurricane Katrina, calls from unlicensed out-of-state security companies inundated the Board office. There was an emergent need for security of employees and facilities in the hardest hit areas, particularly New Orleans. However, local private security companies were either unavailable or in short supply. Therefore, businesses hired out-of-state security companies, most of which were unlicensed in Louisiana.

Both Mr. Rogillio and Ms. Ryland stated that they sent a letter to each unlicensed out-of-state company that called requesting a list of names and locations for all employees working within the state. The letter also informed the companies that they could operate without licenses until December 1, 2005. However, Mr. Rogillio said that he did not require the unlicensed companies to file an application with BPSE prior to allowing them to operate within the state. Mr. Rogillio said BPSE records indicate approximately 60 unlicensed companies, operated within the state during that time. Of those, 52 obtained licenses by the December 1, 2005, deadline.

Mr. Rogillio said prior to implementing the waiver of licensing procedures, he discussed his plans with Mr. Gurvich, and sought the opinion of BPSE attorney, Mr. Frank Blackburn. However, he did not obtain a board resolution approving the waiver because BPSE would not have been able to meet due to disruption

caused by the hurricane. He said this action would have required him to call a board meeting by telephone, and he was not sure about the legalities of conducting BPSE business by phone.

Mr. Gurvich confirmed that he was aware of the waiver of licensing requirements. In his opinion, Mr. Rogillio actually just extended the time allowed by statute for an unlicensed company to operate within the state between filing an application and the final determination of the application for licensing. He said that after the storm BPSE would not have been able to meet to approve applications, and the issuance of licenses. Mr. Gurvich stated there was a desperate need for security in the hurricane-ravaged areas, and not enough local security companies to provide it.

Mr. Gurvich acknowledged that the unlicensed companies had not filed applications. He also acknowledged that he aided two clients in obtaining security services from an unlicensed out-of-state company without requiring the company to apply for a license.

Mr. Gurvich stated that his company, New Orleans Private Patrol Services, Inc. was unable to contact the majority of its security personnel, resulting in its inability to fulfill security service obligations for two clients. Therefore, he contacted International Investigative Services, Inc. (IIS), which is a company licensed within South Carolina but not Louisiana, to provide the needed security. Mr. Gurvich stated that although he negotiated the terms of the verbal contracts for his clients, he did not make a profit from the services provided. Mr. Gurvich's two clients confirmed that Mr. Gurvich negotiated their contracts, but IIS provided the services. In addition, both clients stated that they paid IIS directly for the services provided.

Mr. Blackburn confirmed that he spoke with Mr. Rogillio, and agreed to the temporary waiver of licensing requirements. Mr. Blackburn acknowledged that Governor Blanco did not explicitly give BPSE authority to waive licensing requirements during the emergency. However, he stated by law BPSE is required to cooperate with the Louisiana Emergency Operations Plan. He explained that upon declaration of a state of emergency, LSA R.S. 29:724 authorizes the suspension of the provisions of any statute or rule, which would in any way prevent, hinder or delay necessary action in coping with the emergency. Mr. Blackburn said in his opinion that if BPSE had not allowed these companies to operate within the state, the protection of lives and property would have been hindered during the emergency.

In addition, Mr. Blackburn stated that LSA-R.S. 37:3276 (F) authorizes, under certain circumstances, private security companies to operate within the state pending a final determination of their application. In his opinion, Mr. Rogillio was simply extending the time allowed for an unlicensed company to operate within the state between the filing of its application and the issuance of its license.

Review of the statutes cited by Mr. Blackburn revealed that neither BPSE nor its staff had the authority to waive licensing requirements, or to extend the time allowed between filing an application and the final determination of the application without an Executive Order from Governor Kathleen Blanco. In

addition, neither BPSE nor its staff should have allowed the unlicensed companies to operate without first filing an application.

Although LSA-R.S. 37:3276 does authorize private security companies to operate within the state, it does so only when license applications have been filed and are pending a final determination. Both Mr. Rogillio and Mr. Gurvich acknowledged that these unlicensed companies had not filed applications.

Recommendations:

1. Should the pending legislation pass, BPSE should develop and implement procedures for licensing out-of-state companies in the event of an emergency.
2. Should the pending legislation not pass, BPSE should implement procedures for requesting an Executive Order from the governor, upon the declaration of a state of emergency, to authorize either the waiver of licensing procedures or to extend the time allowed between the filling of an application and the final determination of the application.

## **APPENDIX A**

### **Responses**



*Louisiana*  
*State Board of Private Security Examiners*

June 16, 2006

Inspector General Sharon B. Robinson  
Office of the State Inspector General  
224 Florida Boulevard, Suite 303  
Baton Rouge, LA 70801

RE: Case No. 1-06-0017

Dear Ms. Robinson:

By way of response to Mr. Bruce Janet's letter and enclosures of May 31, 2006, please be advised as follows:

**Executive Summary**

Regarding the "Audit Initiation", the findings of the Inspector General's own investigation clearly refute the initial complaint, the actual contents of which I have not been permitted to see. As a matter of undisputed fact, I merely contacted an out of state security provider at the urgent request of two corporate customers which were desperately in immediate need of security to protect their exposed and heavily damaged facilities. Neither I nor my company received any commission, fee, or other remuneration for referring another security provider to these customers; hence the elements of "contract" as regards to me or my company never existed. I should also add that there was no violation of state law in my action.

Regarding the "Summary of Findings", I need only point out that L.S.A.-R.S. 37:3270 et seq. does not give the chairman of the BPSE authority to act on his own, nor did I attempt at any time to so act. The statutes pertaining to the BPSE authorize the chairman to act only collegially when the board meets in its official capacity. Due to the extensive disruption of communications and the urgency of extricating our own trapped staff, accounting for missing personnel, and reorganizing our remaining forces, it was several days before I could even communicate with the board office, by which time the executive secretary had already been in communication with numerous security providers. I immediately advised Chief Rogillio that under the circumstances, I saw no alternatives to his action and fully supported him. Subsequent events more than confirmed my confidence in his action.

**Background**

I do not address this portion of the Inspector General's draft report except to say that the existing statutes (Act 505 of 1984, as amended) speak for themselves. As you are aware, Act 206 of 2006, to become law effective August 15, 2006, will resolve future such problems.

### Scope and Methodology

I do not address this portion of the Inspector General's draft report except to again deny any contractual involvement in the provision of out of state security personnel to two local customers (see Executive Summary, supra). No evidence to the contrary has been presented herein.

### Improper Licensing Requirements Waiver

The subject matter of this section primarily relates to the actions of the BPSE staff, hence Chief Rogillio can better answer these allegations. With regard to allegations relating to me personally, I repeat that I was not aware of the plan to waive the submission of the full application prior to the waiver being granted. I agree with the findings of the Inspector General's office that the board was incapable of meeting for many weeks after the storm: a quorum would have been difficult to achieve and communications were too unreliable for a telephonic meeting, even if so authorized by statute.

L.S.A.-R.S. 37:3276 (F) requires that private security providers "shall apply to the board for a license prior to operating a business ...", but goes on to authorize business operations pending a final determination on the application. Numerous out of state security providers contacted the BPSE staff for permission to operate within the state, which companies were then verbally authorized to operate on a temporary basis. Chief Rogillio's decision to accept such verbal applications and not wait on formal document filings was entirely justified under the exigent circumstances. It should also be pointed out that most of the special response security personnel already worked for companies licensed in Louisiana; the great majority of the formal written applications submitted by previously unlicensed companies were ultimately approved; and many special response personnel secured FEMA and other federal enclaves not subject to BPSE jurisdiction.

In sum, had BPSE staff refused entry or shut down functioning private security operations run by out of state security providers, crucial rescue and recovery efforts would have been disrupted and the public thereby endangered by the loss of over three thousand security personnel. Indeed, the Inspector General's draft report does not propose disciplinary action against any party, merely recommending a statutory or executive order remedy. While the statutory remedy has already been passed and will shortly become law, either recommendation presented in the report would appear to resolve future such issues. However, I strongly reject any implication of impropriety by the board staff or myself in said report. To the contrary, the BPSE has fairly and impartially regulated the contract security industry in Louisiana and passed all recent audits with flying colors, all at no cost to the public.

Sincerely yours,



LOUIS S. GURVICH, JR.  
Board Chairman



*Louisiana*  
*State Board of Private Security Examiners*

June 16, 2006

Louisiana State Inspector General  
Sharon B. Robinson, CPA  
P. O. Box 94095  
224 Florida Street, Suite 303  
Baton Rouge, LA 70804-9095

Re: Case No. 1-06-0017

Dear Ms. Robinson:

I am responding to the audit report dated May 31, 2006, which is critical of my decision, as the Executive Secretary of the Louisiana State Board of Private Security Examiners, that allowed out-of-state security companies to come into Louisiana to provide security to those areas affected by Hurricanes Katrina and Rita in late 2005.

The report reflects that the Board Chairman Louis Gurvich and myself were responsible for allowing companies to operate in Louisiana after the hurricanes devastated parts of the state. To clarify, Mr. Gurvich was only informed of this process after it was initiated. It was my decision to allow this process to begin. Board Attorney Frank Blackburn and Mr. Gurvich were told of my decision later.

From my experience as a police officer and my tenure as Chief of Police with the Baton Rouge Police Department, my first thoughts were to see that the safety and welfare of the public and the protection of property were maintained.

As reported in the media, there were many New Orleans police officers who left the area and most of the security officers and security companies located in the New Orleans area were dislocated due to the storm and communication within that area was non-existent. Since there was no communication with the security companies licensed in the New Orleans area, many businesses who had no way to make contact with local companies to provide security directly contacted out-of-state

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companies to protect their property and lives. The looting and shooting incidences reported had many business owners, such as banks, hotels and other locations, frightened enough that they feared for their lives and property. In many instances, the media reported that the police, National Guard and others had been shot at while attempting to rescue people.

Although some of the out-of-state companies coming in were already licensed in Louisiana, some were not. Those licensed simply asked to bring in their security officers to provide protection for clients they were either currently working for or had worked for in the past. Many of the companies that came into the state did obtain a license from the Board office within the deadline prescribed by the Board.

I call your attention to Section 2.C. of Executive Order KBB-04-20, a copy of which is attached, binding all departments, commissions, boards, agencies and offices to comply with the Governor's Orders should a disaster or emergency occur. Section 9 of that Order requires all departments, commissions, boards, agencies and offices of the state to cooperate in the implementation of the Order. Sections 2.C and 9 of Executive Order KBB-05-18 also have the same language. The Board is an agency of the Department of Public Safety and Corrections with the head of the Louisiana State Police as an ex-officio board member. Under the Governor's Orders, the Board would fall into that command structure when an emergency or disaster occurs.

Current law [R.S. 37:3276(F)] allows a security company to begin operating in the state after making application and pending a decision by the Board on that application. Under the circumstances, we allowed a phone call to begin the application process, which I determined was allowable and not contrary to any law or rule. Furthermore, LAC Title 46, Part LIX, Chapter 2, §203(F) allows out-of-state security companies who satisfy our licensing requirements to operate in Louisiana without examination if their home state has comparable licensing requirements.

All of the companies coming into the state who contacted the Board office were required to furnish verification that they held a license in their respective state, verification of their insurance coverage, and a list of the security officers and their training for that particular company in the state where they were licensed. The Board does not normally have information as to where security officers might be assigned to work; therefore, it would be difficult to locate any of the security officers or their companies if they did not make contact with the Board office. However, all of the companies who contacted the Board were also required to furnish a list of officers, their social security numbers and training verification, a description of the uniform worn by the officers, whether the officers would be armed or unarmed, and the location of the site(s) where they would be working.

Louisiana State Inspector General  
June 16, 2006  
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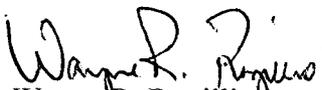
A large number of security companies and security officers were brought into the state by the Federal Emergency Management Agency (FEMA) to secure FEMA sites. Those companies and their officers would not be regulated by the Board because they were at federal enclaves and not under the jurisdiction of the Board due to federal preemption.

Additionally, as you know, many agencies and commissions obtained from the Governor's office a waiver to the law as needed during the emergency. We could have also requested this, which I am sure would have been approved, but did not as we were busy doing our best to save lives and protect property.

As you are aware, the Board introduced a bill during the 2006 legislative session which specifically addressed this particular issue. The bill passed and is now Act 206 of 2006 and becomes effective August 15, 2006. The passage of this Act resolves any future problems.

Due to the circumstances and the chaotic conditions occurring in the state after Hurricanes Katrina and Rita, I feel that I made the right decision to ensure that property and lives received the kind of protection required. It is my belief, and was my concern, that the people and property affected needed to be protected since most all of the security companies and their personnel were dislocated due to these devastating hurricanes and my decision was the right thing to do. I believe this decision has been validated with the unanimous passage of the legislation mentioned above.

Respectfully submitted,

  
Wayne R. Rogillio  
Executive Secretary

WRR/jbr

## **APPENDIX B**

### **Subsequent Event**

## **Subsequent Event**

Since the initial draft report, Governor Blanco signed House Bill 841 into law as Act No. 206 of 2006. The Act resolves the need for an Executive Order from the governor, upon the declaration of a state of emergency, to authorize either the waiver of licensing procedures or to extend the time allowed between the filing of an application and the final determination of the application.

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- Call the Office of State Inspector General at (225) 342-4262