



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL,
ATTORNEY GENERAL**

March 16, 1976

The Honorable Wayne N. Whatley
Executive Director
Texas Board of Private Investi-
gators & Private Security
Agencies
P. O. Box 13509, Capitol Station
Austin, Texas 78711

Opinion No. H-796

Re: Whether state and
local law enforcement
agencies may establish
training programs for
private security personnel.

Dear Mr. Whatley:

You have requested our opinion regarding recent amend-
ments to the Private Investigators and Private Security
Agencies Act, article 4413(29bb), V.T.C.S. Specifically,
you ask:

1. Does the [Texas] Board [of Private
Investigators and Private Security
Agencies] have authority to establish
training programs in state and local
law enforcement agencies for persons
in the employ of profit making busi-
nesses, i.e. private security personnel?
2. Do local and state law enforcement
agencies have authority to accept and
charge a fee for training persons in the
employ of profit making businesses, i.e.
private security personnel?

Section 20(a) of the Act now provides:

The board shall establish training
programs to be conducted by agencies and
institutions approved by the board. The
board may approve training programs con-
ducted by licensees if the licensees offer
the courses listed in Subsection (b) of
this section, and if the instructors of

the training program are qualified instructors approved by the board. The board shall approve a training program conducted by the security department of a private business to train its own personnel, without regard to its curriculum, if it is adequate for the business' security purposes.

Section 20(f) provides in pertinent part:

The board may not issue a security officer commission to an applicant employed by the security department of a private business unless the applicant submits evidence satisfactory to the board that:

(1) he has completed an approved training course conducted by the security department of the business;

. . . .

The Act establishes two distinct classes of private security personnel: (1) individuals employed by security services contractors and (2) those employed in the security departments of private businesses. The former engage in the business of providing security services for other persons; the latter do not offer or provide security services to any other person. Secs. 2(9), 2(10), 2(13). Section 20(a) clearly permits the Board to establish training programs for individuals employed by a security services contractor. Such programs need only be conducted "by agencies and institutions approved by the board." There would seem to be nothing to prevent state and local law enforcement agencies from qualifying for such Board approval, if the operation of such programs is otherwise consistent with their statutory authority. But section 20(f), by requiring that a commission may not be issued to an employee of the security department of a private business unless the employee has completed "an approved training course conducted by the security department of the business" requires the conclusion, in our opinion, that the Board may not permit law enforcement

agencies to conduct programs for the purpose of training employees of the security department of a private business.

You also ask whether state and local law enforcement agencies may charge a fee for training persons employed by a security services contractor. The Act provides no specific authority for the imposition of such fees. As to state agencies, we believe the answer is clear. It is well established that, unless a fee is provided by law for an official service required to be performed and the amount fixed by law, none can lawfully be charged. Attorney General Opinions H-669 (1975), H-443 (1974). See Nueces County v. Currington, 162 S.W.2d 687, 688 (Tex.Sup. 1942); McCalla v. City of Rockdale, 246 S.W. 654, 655 (Tex.Sup. 1922). With regard to sheriffs, a similar result obtains. In the absence of some enactment providing for remuneration for a particular service, no fee may be demanded therefor. 52 Tex.Jur.2d, Sheriffs, Constables, and Marshals §38. See Templeton v. Ryburn, 59 Tex. 209 (1883).

A home rule city, on the other hand, may exercise any power not denied it by the Constitution or by statute, so long as the power is incorporated in the city charter. V.T.C.S. art. 1176; Janus Films, Inc. v. City of Fort Worth, 354 S.W.2d 597 (Tex. Civ. App. -- Fort Worth 1962, writ ref'd n.r.e. at 358 S.W.2d 589). You have not requested our opinion as to any particular city, and we therefore conclude that whether a city law enforcement agency may charge a fee for training persons employed by a security services contractor depends upon the terms of the city's charter.

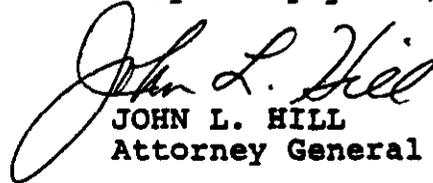
S U M M A R Y

The Texas Board of Private Investigators and Private Security Agencies may establish training programs in state and local enforcement agencies for individuals employed by a security services contractor, but not for the employees of the security department of a private business. In

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general, law enforcement agencies may not charge a fee for training private security personnel, but a city law enforcement agency may do so if permitted by the terms of the city's charter.

Very truly yours,

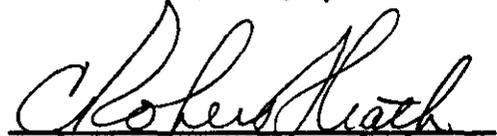


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APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee

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