



Texas Board of Private Investigators and Private Security Agencies
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Opinion Committee

Jay Kimbrough
 Executive Director

The Honorable John Cornyn
 Office of the Attorney General
 209 West 14th Street
 Austin, Texas 78701

Ben Nix
 Chair
 Arlington

Attn: Opinions Committee, Texas Attorney General's Office

Matthew Washington
 Vice Chair
 Missouri City

Re: Request for Attorney General's Opinion

Joel Glenn
 Secretary
 Fort Worth

Concerning: *Whether a political subdivision retains exemption under the provisions of Article 4413(29bb)V.A.C.S. when engaging in a proprietary activity that would otherwise require a license under that statute.*

Jess Ann Thomason
 Midland

George B. Craig
 Corpus Christi

History: The Texas Board of Private Investigators and Private Security Agencies (Agency) was informed by an alarm systems company trade association that local police departments had begun offering alarm monitoring services to residents of their respective municipality for a fee. One municipality has, in fact, confirmed that the report is accurate.

Jim G. Bray
 Plano

Dan Morales
 Attorney General

Col. Dudley Thomas
 Dept. of Public Safety

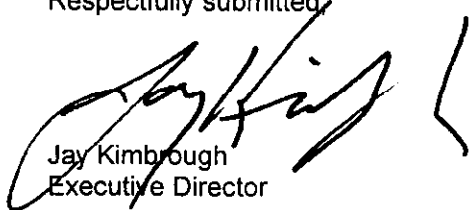
The Agency initially responded to the trade association's query as to the municipality's authority to engage in this activity without a license under a strict construction of Article 4413(29bb) V.A.C.S. (The Act) Section 2(2). This section does not include a "political subdivision" in defining "persons" who are required to be licensed.

The alarm systems company trade association's attorney responded to the Agency's reply by pointing out that, "... while there may be a valid reason for not construing "person" to include a political subdivision performing a governmental function, there is no good reason to exclude a political subdivision's performing a proprietary function from the definition."

The strict interpretation provided by the Agency relates to the general exclusion of political subdivisions from the licensing requirements of the Act. The question now arises as to the extent of that exclusion or exemption when a political subdivision that would otherwise be exempt from the statute engages in proprietary activity generally reserved for the private sector.

Thank you for your consideration in this matter.

Respectfully submitted,



Jay Kimbrough
 Executive Director