

**LETTER OPINION  
2003-L-23**

April 3, 2003

Ms. Francine Johnson  
Executive Director  
North Dakota Private Investigative and Security Board  
513 E Bismarck Expy Ste 5  
Bismarck, ND 58504-6577

Dear Ms. Johnson:

Thank you for your request for my opinion regarding whether courier services fall within the definition of "private security service" in N.D.C.C. § 43-30-01(5).

"Private security service" means furnishing for hire security officers or other persons to protect persons or property, or to prevent the theft or the unlawful taking of goods, wares, and merchandise, or to prevent the misappropriation or concealment of goods, wares, merchandise, money, bonds, stocks, choses in action, notes, or other valuable documents or papers, or the business of performing the service of such security officer or other person for any of these purposes.

N.D.C.C. § 43-30-01(5).

The definition focuses on activities the primary purpose of which is to protect persons or property. Thus, someone hired to protect persons or property may be covered by the definition of "private security service."

"Courier" is defined as "[a] messenger, especially one who delivers parcels, packages, and the like." Black Law Dictionary, 356 (7th ed. 1999). The examples of services you gave in your letter included couriers who collect checks, deposits and other negotiable instruments<sup>1</sup> and physically take them to other persons, entities or locations. One would

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<sup>1</sup> Couriers are also known to transport documents or papers between parties which have little intrinsic value although they may be of great importance to the parties. In

assume the couriers would have the responsibility to safely transport those instruments to the intended destinations, and prevent the theft of those instruments. However, whether the courier's seemingly ancillary duty to protect the instruments the courier has collected results in the courier service itself falling within the definition of a "private security service" is a factual determination on which this office can not opine.<sup>2</sup> See N.D.A.G. 93-L-26 (stating that whether a specific individual falls within an exemption to the investigative and security service licensing requirement is a factual question which this office cannot answer).

Therefore, it is my opinion that persons providing courier services are not necessarily performing a private security service under N.D.C.C. ch. 43-30. Whether the activity constitutes a private security service is a factual question which must be determined on a case-by-case basis.

Sincerely,

Wayne Stenehjem  
Attorney General

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such cases the parties seeking courier services are more concerned with speed and convenience than theft prevention.

<sup>2</sup> Unlike N.D.C.C. ch. 43-30, several states specifically list courier services as falling within security services. For example, see Tex. Occ. Code Ann. § 1702.102 (Vernon 2003) and Va. Code Ann. § 9.1-138 (Michie 2002) (which only applies to couriers who perform their services while carrying a firearm).