

TEXAS DEPARTMENT OF MOTOR VEHICLES

CONSUMER PROTECTION ADVISORY COMMITTEE

MEETING

OPEN MEETING VIA TELEPHONE CONFERENCE CALL  
PURSUANT TO GOVERNOR'S MARCH 16, 2020  
TEMPORARY SUSPENSION OF CERTAIN OPEN MEETING PROVISIONS

Tuesday,  
July 21, 2020  
1:30 p.m.

COMMITTEE MEMBERS:

Laird Doran, Presiding Officer  
Dorothy Brooks  
Richard Cavender  
Melissa Colvin (absent)  
Tiffen Eshpeter  
James French  
Ruben Gonzalez  
Cheryl Johnson  
Traci McCullah (absent)  
Ray Olah  
Jeanette Rash  
Michael Rigby  
Carroll (William) Smith  
Juan Solis (absent)

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P R O C E E D I N G S

1  
2 MR. DORAN: Thank you. Good afternoon. My  
3 name is Laird Doran. And I am pleased to open the meeting  
4 of the Consumer Protection Advisory Committee. For ease  
5 of reference, I will refer to this Advisory Committee as  
6 CPAC, which is the acronym for this Advisory Committee.

7 It is now 1:38 p.m. and I am now calling the  
8 CPAC meeting for July 21, 2020 to order. I want to note  
9 for the record that the public notice of this meeting  
10 containing all items on the agenda was filed with the  
11 Office of Secretary of State on July 13, 2020.

12 This meeting is being held by telephone  
13 conference call in accordance with the Texas Government  
14 Code Chapter 551, as temporarily modified under Governor  
15 Greg Abbott's authority to suspend certain statutes due to  
16 COVID-19. Governor Abbott suspended various provisions of  
17 the Texas Open Meetings Act that require government  
18 officials and members of the public to be physically  
19 present at specified meeting location.

20 Under that suspension, the public will not be  
21 able to physically attend this meeting in person.  
22 Instead, the public may attend this meeting by calling the  
23 toll-free telephone number which is posted in the agenda,  
24 which was filed with the Office of the Secretary of State

1 on July 13, 2020. All Advisory Committee members,  
2 including myself, will be participating remotely via  
3 Webex.

4 At this time, please mute your phone for the  
5 entire duration of this meeting. I am asking our Webex  
6 meeting host to make sure all participants' phones are  
7 muted, except for Advisory Committee members and those who  
8 are presenting. Callers will be removed for any  
9 disruption, including background noise.

10 I would like to remind all participants that  
11 this is a telephone conference call meeting. Because this  
12 meeting is being held by telephone conference call, there  
13 are a few things that will assist in making the meeting  
14 run smoother and assist the court reporter in getting an  
15 accurate record.

16 Department staff, Committee members, and any  
17 commenters should identify themselves before speaking.  
18 Speak clearly. Remember that there may be a slight delay,  
19 due to the telephone conference call meeting. So, please  
20 wait a little longer than usual before responding to  
21 participants.

22 Do not speak over others. And speakers should  
23 ask the presiding officer to proceed and be sure to get  
24 recognized before speaking. Members should mute their  
25 telephones when not speaking and should not conduct side

1 conversations during the meeting.

2 Because the number of dial-in participants is  
3 limited, if you wish to address the Advisory Committee or  
4 speak on an agenda item during today's meeting, please  
5 send an email to [gco\\_general@txdmv.gov](mailto:gco_general@txdmv.gov). Please identify  
6 in your email the specific item you are interested in  
7 commenting on.

8 Provide your name and address, and whether you  
9 are representing anyone, or speaking for yourself. If  
10 your comment does not pertain to a specific agenda item,  
11 we will take your comment during the general public  
12 comment portion of this meeting.

13 In accordance with Department administrative  
14 rule, comments to the Advisory Committee will be limited  
15 to three minutes, then the call will be muted. Comments  
16 should be pertinent to the issue stated in your email.  
17 When addressing the Advisory Committee, please state your  
18 name and affiliation for the record.

19 Before we begin today, I would like to remind  
20 all presenters and those in attendance of the rules of  
21 conduct at a Texas DMV public meeting. In the  
22 Department's rules, under 43 Texas Administrative Code  
23 Section 206.22, the presiding officer is given authority  
24 to supervise the conduct of the meeting.

25 This includes the authority to determine when a

1 speaker is being disruptive of the meeting or is otherwise  
2 violating the timing or presentation rules I just  
3 discussed. Disruptive speakers will be muted, given a  
4 warning about disruptive behavior, and then removed from  
5 the meeting for any continued disruption.

6 Advisory Committee members, please let us know  
7 immediately if you are no longer able to participate for  
8 any reason. If your phone call drops and you are  
9 disconnected, Texas DMV staff will interrupt the meeting  
10 to let us know, to get you back on the line before we  
11 proceed with the agenda.

12 And now, I would like to proceed forward with  
13 Agenda Item 1A, roll call and establishment of the quorum.  
14 Now I would like to have a roll call of the Advisory  
15 Committee members.

16 Please let me know if I pronounce your name  
17 incorrectly. When I call your name, please indicate if  
18 you are present by stating either here, or present.

19 Member Brooks?

20 (No response.)

21 MR. DORAN: Member Cavender.

22 MR. CAVENDER: Present.

23 MR. DORAN: Member Colvin.

24 (No response.)

25 MR. DORAN: Member Eshpeter.

1 MS. ESHPETER: Present.

2 MR. DORAN: Member French.

3 (No response.)

4 MR. DORAN: Member Gonzalez.

5 MR. GONZALEZ: Here.

6 MR. DORAN: Okay. Member Cheryl Johnson.

7 (No response.)

8 MR. DORAN: Member Olah.

9 MR. OLAH: Present.

10 MR. DORAN: Member Rash.

11 MS. RASH: Present.

12 MR. DORAN: Member Rigby.

13 MR. RIGBY: Here.

14 MR. DORAN: Member Smith.

15 MR. SMITH: Here.

16 MR. DORAN: Member Solis.

17 (No response.)

18 MR. DORAN: For the record, I, Laird Doran, am  
19 present as well. We have a quorum. Members, we are going  
20 to take up Agenda Item 2, discussion, briefing, and action  
21 item.

22 Now, moving on to Agenda Item 2A, protecting  
23 DPPA information, legislative recommendations, and  
24 rulemaking recommendations. Members, the discussions will  
25 be led by Associate General Counsel David Richards of the

1 Texas DMV and Director of Vehicle Titles and Registration  
2 Division, Jeremiah Kuntz. I will now turn the meeting  
3 over to Mr. Kuntz and Mr. Richards.

4 MR. KUNTZ: Members, good afternoon. This is  
5 Jeremiah Kuntz, the Director of the Vehicle, Title, and  
6 Registration Division. Before you, we are going to be  
7 talking about the information related to the Drivers  
8 Privacy Protection Act, and the rules that the Department  
9 has implemented to our program that we administer at the  
10 Department.

11 I believe most of the members, hopefully all of  
12 the members, have heard our presentation giving the  
13 background on the Drivers Privacy Protection Act. But  
14 very quickly, I will give a brief overview just to kind of  
15 level set everybody as to what we are going to be talking  
16 about. And then I will actually turn it over to our  
17 Associate General Counsel for them to weigh out the  
18 possible recommendations for consideration that the  
19 Advisory Committee will be taking up and considering.

20 So just a little bit of background, very  
21 quickly. There are really two controlling statutes. One  
22 is a federal statute, and one is a state statute regarding  
23 Drivers Privacy Protection information.

24 And so, the federal act is called the Drivers  
25 Privacy Protection Act. The state law is in Chapter 730,



1 and it is the Motor Vehicle Records Disclosure Act. The  
2 state law very closely mirrors the federal law in what can  
3 and cannot be released from a motor vehicle record.

4 And the thing that is probably easiest to  
5 really talk about as we talk about motor vehicle records,  
6 because we have lots and lots of information that is  
7 contained within our database -- but the real information  
8 that is protected is going to be the name and the address,  
9 any contact information, if you will, for an individual  
10 that associates them to a vehicle.

11 Now, obviously, this is information that is  
12 needed by many entities in order to conduct normal  
13 business because motor vehicles are on the roadway. And  
14 one of the primary purposes of having a motor vehicle  
15 record is to identify the owner of that vehicle, and or  
16 any lien holders that may have an interest in the vehicle.

17 So, as we start talking about this, we want to  
18 make sure that we keep in mind, while the state and  
19 federal laws protect the personal information that is  
20 contained in our database, there are obviously reasons in  
21 which people need to be able to access that information in  
22 order to conduct either government or private business.

23 So, you know, the easy examples would be law  
24 enforcement needing to be able to run a license plate  
25 number on a roadside stop and know who the owner of that

1 vehicle is, when they are approaching the vehicle. That  
2 is our highest user of our motor vehicle data and they  
3 have a permitted purpose to access that information.

4 The other thing that we start looking at is, we  
5 start going down in the Transportation Code in 730, is all  
6 of the -- there is two sections. There is required  
7 disclosure in which the agency has no choice, but we are  
8 required to give the information for those purposes.

9 And I will very quickly read some of those.  
10 Those are the motor vehicle or motor vehicle operator  
11 safety, motor vehicle theft; motor vehicle emissions;  
12 product alterations or recalls; performance monitoring of  
13 motor vehicles by dealer or motor vehicle dealer by motor  
14 vehicle manufacturer; removal of non-owner records from  
15 original owner records of motor vehicle manufacturer to  
16 carry out the purposes of -- so, you can see, there are  
17 certain things where if we get a request under these  
18 purposes, we are required as an agency to provide that  
19 information to the person that is requesting it that has  
20 one of these purposes for the use of that information.

21 The next section that we get into is required  
22 disclosure with consent. This is where you have the  
23 consent of the owner of the record, so that the person has  
24 authorized somebody to obtain the record for them, or has  
25 authorized them to obtain the record, so that they can use

1 it.

2 This may be an attorney who is representing you  
3 that needs information out of the system, those kind of  
4 situations. But in this situation, you have got  
5 disclosure with consent from the individual.

6 The last section, this is the section that the  
7 Department really works primarily in, and that is  
8 permitted disclosures. So 730.007 of the Transportation  
9 Code authorizes certain individuals to obtain personal  
10 information if they meet these specific permitted  
11 purposes.

12 The Department is not required to provide the  
13 information under these permitted purposes. But the  
14 Department is authorized to provide the information to  
15 these entities when they are carrying out these functions.

16 I am not going to read through all of them. I  
17 know we have talked about them before. But you know, our  
18 primary users, that I would say, of this section of code  
19 are going to be some of the obvious ones that I will talk  
20 about.

21 Motor vehicle dealers that are looking to  
22 verify the ownership of a vehicle that has been traded in  
23 to their dealership. Tow truck companies that are  
24 performing non-consent tows have a requirement to notify  
25 the owner on record that they have taken possession of

1 their vehicle and it is at a vehicle storage facility.

2 That is a very large group of individuals that  
3 access our records so they can make proper notification to  
4 the owner that the owner's vehicle is in their possession.

5 So, I just give those as some examples, but there are  
6 definitely lots of other examples. Let me scroll through  
7 here real quick.

8 If you look on page 15, you will see somewhat  
9 of a broad category of different entities that have  
10 access, or attempt to access our records: governmental  
11 entities; towing and salvage entities; automobile and  
12 automotive sales industry, including banks and lenders  
13 that do motor vehicle loans; insurance industry; and then  
14 we have got somewhat of a miscellaneous category of other  
15 industries like, hospitals, schools, universities,  
16 homeowners' associations. And so, I give these as  
17 examples of entities that either have access or have  
18 requested access in the past to our records.

19 And some of them may have been denied, that we  
20 have not authorized them, because they didn't have a  
21 permitted purpose. But these are the types of entities  
22 that are generally interested in obtaining our records.

23 With that, I am trying to keep it short, just  
24 because I know I have given this information in some of  
25 the other meetings. And I think we wanted to move into

1 the recommendations, but if there are any questions  
2 regarding the statute, I would be more than happy to  
3 answer those right now.

4 MR. DORAN: Jeremiah, this is Presiding Officer  
5 Doran. I did have one question.

6 In identifying what was considered personally  
7 identifiable information or the information that the two  
8 laws are designed to protect and govern, I heard you say  
9 physical address, and then, I believe, the name of the  
10 vehicle owner. Is the Vehicle Identification Number also  
11 considered protected information?

12 And where I am going with this is there are  
13 certain applications for your phone that have been  
14 developed where you can walk up to a license plate and  
15 point your phone at that license plate. And it will take  
16 that license plate number and ping it up against a  
17 database that shows whether or not that vehicle has an  
18 outstanding recall.

19 It doesn't mention the vehicle owner's name.  
20 It just tells you whether that vehicle has an open recall.

21 And I am just curious as to whether that constitutes the  
22 type of information that is subject to these two laws that  
23 you mentioned.

24 MR. KUNTZ: Sure. So, on page 7 of your  
25 packet, in Chapter 730, "personal information" is defined

1 right there, and it means information that identifies a  
2 person, including the individual's photograph or  
3 computerized image, Social Security number, drivers  
4 identification number, name, address, but not the zip  
5 code, telephone number, and medical or disability  
6 information. And it does not include information on a  
7 vehicle accident, a driving or equipment related  
8 violations, driver's license or registration status, or  
9 information contained in an accident report.

10 As you can tell, I did not say VIN number. We  
11 do not consider the Vehicle Identification to be personal  
12 information from the standpoint of our data. So, then,  
13 you have mentioned -- but I mean, make, model, color of  
14 the vehicle, those items would not be considered personal  
15 information and could be released.

16 And we get Open Records requests at times for  
17 non-personal information, more statistical in nature, you  
18 know, and I will just use this as an example. You know,  
19 how many pickup trucks are there in the State of Texas?  
20 You know, how many are located in Harris County? Those  
21 kind of things.

22 That would not be protected under DPPA. We  
23 would be allowed to provide information about the vehicles  
24 that are contained in the database.

25 MR. DORAN: Thank you. Were there any other

1 questions for Mr. Kuntz?

2 (No response.)

3 MR. DORAN: Thank you, Jeremiah. It doesn't  
4 sound like there is any other questions.

5 MR. KUNTZ: Okay. Great. Then, I think Mr.  
6 Richards has some information that he was going to be  
7 sharing with the Advisory Committee.

8 MR. RICHARDS: David Richards for the record.  
9 May I be recognized?

10 MR. DORAN: Yes. David, you are recognized.

11 MR. RICHARDS: Chairman Doran, Members, Good  
12 afternoon. I hope that each of you and your families have  
13 been safe and well since our last meeting and will  
14 continue to do so.

15 Some of what Mr. Kuntz covered was in my  
16 presentation, as far as the laws go. But the primary  
17 focus of what I would like to talk to you about today, as  
18 well as cover some of the statutes and rules, our focus  
19 with this particular meeting is overall to protect  
20 personal consumer information by enhancing vendor  
21 accountability in ensuring data security. That is an  
22 overreaching goal that we have, moving forward with this  
23 type of information.

24 I will go over some of the statutory  
25 provisions, rules, and also I believe we included a link

1 in your meeting materials to the AAMVA interim report,  
2 Data Privacy and External Access, which is a very good  
3 source of information and much of which we already do, or  
4 will be doing, or will be following.

5 But again, the focus with some of it -- and  
6 ultimately, let me say, the objective at the end of this  
7 meeting, or my presentation, is to present to each of you  
8 some legislative concepts. Or hopefully, recommendations  
9 that can be formed into the form of a motion and a vote  
10 that can be recommended to the Texas DMV Board for the  
11 next legislative session.

12 Some of these recommendations have been the  
13 subject of an internal working group that Mr. Kuntz has  
14 led with his senior advisors in the Vehicle, Title, and  
15 Registration Division. I have been a part of that. Some  
16 of the recommendations come from the AAMVA interim report,  
17 and some, as you will see here in a little while, were  
18 suggested during the 85th Texas Legislative Session. But  
19 that particular bill that was filed by Senator Lois  
20 Kolthorst did not pass during that session.

21 So, what I would like to do, and forgive me if  
22 I touch on some of the things that Mr. Kuntz had mentioned  
23 earlier. But if you go to your Board books, your CPAC  
24 meeting materials, page 6, we are going to start with the  
25 Motor Vehicle Records Disclosure Act.



1           Again, the overarching concern of this  
2           legislation, passed by the Texas Legislature, is to  
3           protect the interest of the individual and the  
4           individual's personal privacy by preventing disclosure and  
5           use of personal information contained in the motor vehicle  
6           record, except as authorized by the individual. And Mr.  
7           Kuntz touches on, if an individual who is the subject of a  
8           record gives his or her consent, then that can be  
9           disclosed -- or if the law provides for it.

10           Briefly, as Mr. Kuntz talked about, there is  
11           obviously a general prohibition and disclosure on page 7.

12           Section 730.004, it also has a caveat or exception that  
13           there are exceptions elsewhere in the law, which there  
14           are. And we will talk about it here in a minute. Certain  
15           information can be disclosed.

16           Again, on page -- let's see, on page 9 of the  
17           statute, there is an allowance for disclosure, if a person  
18           gives his or her consent. The permitted disclosures, as  
19           Mr. Kuntz mentioned, are where we do spend a lot of time.

20           And there is a laundry list, if you look on  
21           page 9 of your meeting materials, your meeting book.  
22           There are certain provisions that will allow for. And  
23           again, it is a permissive subsection. It is not a  
24           mandatory. We do not have to release certain information  
25           that falls under one of those subsections.

1           Let me see here. We have got -- and I will get  
2 probably more into it, when we get into the rules here,  
3 shortly. If you move onto page 12. Let me back up. Let  
4 me back up.

5           Back to page 11. Under 730.007, the permitted  
6 uses or permissive uses or disclosures, rather.  
7 Subsection B at the top of the page is important, in that  
8 it reads, the only personal information an agency may  
9 release under this section is the individual's name and  
10 address, date of birth, and driver's license number. So,  
11 mark that. Make a mental note of that.

12           As Jeremiah said, there are -- we have a lot of  
13 interaction with law enforcement. And Subsection D, that  
14 is on page 11 of 730.007, comes into play quite a bit as  
15 well. The Agency has established fees for information.

16           Under 730.014, the Legislature gave the DMV or  
17 any agency that holds the motor vehicle record the  
18 authority to promulgate rules to lay out the groundwork  
19 for implementing the program in greater detail. More so,  
20 obviously, than the statute does.

21           On page 13 of the meeting book is an important  
22 provision, which we use, or utilized in our vetting  
23 process, through applications and of course, our motor  
24 vehicle contract is our additional conditions that we may  
25 impose in order to make sure we are not just giving the

1 information out to anybody.

2 Also, on page 13 of the Motor Vehicle Records  
3 Disclosure Act is a provision that we see a lot. We deal  
4 with a lot. We are constantly vetting and trying to  
5 improve.

6 And you will see in some of the recommendations  
7 coming up that I will present, there are some, I don't  
8 want to say necessarily some holes. But we believe as an  
9 agency that there are things that if the statute were  
10 tightened -- and also, maybe some rules, which we will  
11 talk of in another meeting perhaps. We are just going to  
12 talk about legislative recommendations today. Would help  
13 us deal with those who resell or redisclose information.

14 An entity or person can acquire information  
15 from us and resell it. But as you see on page 13, in  
16 Subsection A, they may not resell or redisclose the  
17 personal information in the identical or a substantially  
18 identical format that was disclosed to them, by, in this  
19 case, the DMV. Whoever they are going to disclose it to  
20 or resell it to can only be for permitted use.

21 One of those that is found in Section 730.007.

22 And also, there is in the statute, a recordkeeping  
23 requirement by an entity that resells or rediscloses. And  
24 they -- currently, the statute of the law requires them to  
25 maintain that record for five years and provide copies to

1 the agency on request by the DMV.

2 You will note in Subsection D that a person  
3 commits an offense if a person violates this section. An  
4 offense under this subsection is a misdemeanor by fine not  
5 to exceed \$25,000. So, there is some teeth involved, in  
6 the form of a fine not to exceed \$25,000.

7 Moving on to page 14. Under 730.014, again, I  
8 mentioned it earlier, is our rulemaking authority that the  
9 Legislature has given us to implement and fine-tune our  
10 internal processes, if you will. Our requirements for  
11 disclosing the hurdles that individuals and requesters or  
12 applicants of information have to meet in order for the  
13 information to be disseminated to them.

14 There is a provision right below that, a  
15 penalty for false representation. If a person represents  
16 falsely their identity in the application for motor  
17 vehicle records, or if they make a false statement on the  
18 application, that constitutes or can constitute a Class A  
19 misdemeanor.

20 Finally, in the Motor Vehicle Records  
21 Disclosure Act, there is a provision providing for  
22 ineligibility of certain persons to receive personal  
23 information. It is under certain circumstances that  
24 requires a conviction of an offense under Chapter 730, or  
25 who violates a rule.

1           And also, further requirements that a sentence  
2 be imposed, and -- or they have been considered to be  
3 convicted, rather -- I am sorry, if a sentence has been  
4 imposed, or they received probation, or deferred  
5 adjudication. Or finally, the Court defers final  
6 disposition of the case.

7           Any questions about the statute, before I move  
8 on to our rules, and kind of get a little flavor for what  
9 we have there? Because as I said, we have given  
10 rulemaking authority. Our rules really get down into the  
11 weeds of what is required of a person who applies or makes  
12 application for motor vehicle records, information.

13           And we -- pretty self-explanatory, but I  
14 thought we would go down that, now we have a basic primer  
15 on what is required, what we are doing now, and what we  
16 can do going forward, through some of the legislative  
17 recommendations that I will present to you shortly. Let  
18 me take a drink here.

19           Our rules are found in Chapter 217, Title 43 of  
20 the Texas Administrative Code, Chapter 217, beginning on  
21 page, I am going to say, 16 in your book, if you will turn  
22 to that. Of course, as with most rules, there is a  
23 purpose in the scope.

24           The page 17 of your CPAC book basically is a  
25 road map for those items or things that are required by

1 the Department in order to gain access to motor vehicle  
2 records. You will look at 217.123, and obviously, it is a  
3 form that we have prescribed for this particular process.

4 And in our rule, it states, it is only going to be  
5 released in accordance with the relevant statutes, the  
6 DPPA, the Motor Vehicle Records Disclosure Act, and the  
7 Texas Open Records Act, or public information act.

8 The one thing that stands out on this form,  
9 they have got to state a permitted use. Not every use is  
10 going to be permitted. They have to fill it out  
11 completely, but they need to state a permitted use under  
12 the rules and the law for us to release it.

13 And if you look down page 17 and continue on  
14 page 18 and 19, you will find all the requirements and  
15 identifications that is required of a person who is  
16 seeking access to this information. If we move on to page  
17 20 in your book, that list lays out the costs of motor  
18 vehicle records.

19 So, we have various charges. Title history,  
20 for example, \$5.75. Certified title history. So, that is  
21 all specifically laid out in rule, so everyone knows if  
22 they are seeking what they are going to have to pay.

23 Moving on to page 22, additional documentation  
24 the Department requires as it relates to permitted uses.  
25 And remember, I stated that someone seeking access has to

1 state a permitted use that is valid under the law in order  
2 to get that. And so, as per statute, which allowed us to  
3 seek additional information, we have a rule that we have  
4 set forth.

5 If you go back to 730.007 and look at all the  
6 different instances in which a release may be granted --  
7 and again, I say may. In our rule, we are setting forth  
8 what is required to establish.

9 So, for example, if someone says, I needed --  
10 let me get back to 730 here real quick. Yes. If I need  
11 it for use in conjunction with a civil, criminal,  
12 administrative, or arbitral proceeding in any court or  
13 government agency, or before any self-regulatory body,  
14 including service of process, investigation in  
15 anticipation of litigation, execution and enforcement of a  
16 judgment or order, or under an order of any court.

17 If you refer to our rule in 217.125, Subsection  
18 B(2), we are setting forth what is required in order to  
19 pass muster, if that is what you are claiming as your  
20 permitted use. And as such, it requires the submission of  
21 proof of a legal proceeding itself.

22 You can't just say, yes. I am involved in  
23 court. I am having -- someone is suing me, or I am suing  
24 someone. You have got to actually submit proof of that  
25 legal proceeding that you are claiming as your permitted

1 use. Or, if no proceeding has been initiated, proof in  
2 anticipation of the proceeding.

3 So, looking down again, our rule 217.125, each  
4 of the permitted uses that are set forth in the statute  
5 under Section 730.007, I have a corresponding requirement,  
6 additional documentation if you will, set forth in our  
7 rule. If you look down to Subsection B, that covers each  
8 of those permitted uses that we may, not shall, but may  
9 release under. But again, we have to be -- it has to be  
10 proven that those things are met.

11 Some cases where we will require a license or a  
12 license number to be provided so we do know, in fact, that  
13 someone is an insurance agent. And their license issued  
14 by TDI is 12345X, whatever it is. So, there are different  
15 forms of documentation that we go through, through our  
16 vetting process in Mr. Kuntz' division in order to  
17 determine whether or not we are going to approve releasing  
18 certain data.

19 We also have a corresponding provision, if you  
20 look on page 23 of your Board book or your meeting book,  
21 that pertains to resale, and redisclosure. In Section  
22 217.126, we kind of flesh that out a little bit more.  
23 Some of it is repetitive of the statute.

24 But again, if XYZ Corporation is applying to  
25 get information and intends to resell it, or is going to



1 resell it or redisclose it, it can't be under the rule, or  
2 under the law in the identical or substantially identical  
3 format as we provided -- as the DMV provided it to them.  
4 And another requirement, XYZ Corporation may not resell or  
5 redisclose the entire motor vehicle records database in  
6 its complete bulk format.

7           They are also required to inform. If XYZ is  
8 selling or redisclosing information that they got from the  
9 DMV under the statute or in the rules, they must inform  
10 me, as the purchaser, what my obligations are under  
11 Chapter 730 and the rules as well, how to protect the  
12 data, and what I can do with it, and what I can't do with  
13 it. But they need to determine first that there is a  
14 permitted use held by the person that they are selling or  
15 redisclosing to.

16           One key thing in the final subsection of this  
17 rule is that any authorized recipient is responsible for  
18 misuse by any person receiving their version of the  
19 information, regardless if XYZ Corporation approved or was  
20 aware of the subsequent transfers. So, we hold the  
21 original recipient responsible for any misuse down the  
22 chain, down the line.

23           And again, violations of rules, violations of  
24 the statutory provisions can result in fines, termination,  
25 or both. We have in the rules a provision on page 24 that

1 deals with records being maintained by recipients. I will  
2 bring forward to you shortly a recommendation that the  
3 statute also mirror that, that there be a records  
4 management amendment, if you will, or a recommendation to  
5 the Board for legislative change to make it part of the  
6 statute.

7 Currently, records by authorized recipients who  
8 resell or redisclose personal information, they are  
9 required to keep it under our rules for five years, as  
10 well as the statute. And they have certain things they  
11 need to include, as you look on page 24: name and contact  
12 information of anybody they sold it to, or redisclosed it.

13 The permitted use, which we need to know, for the records  
14 that were released. Subsection 3 is the quantity of  
15 records sold and disclosed to each person.

16 Statement by the authorized recipient  
17 specifying what data was resold or redisclosed, and in  
18 what format. And then finally, any other documentation  
19 with agreement to resell.

20 So, there are certain things that a reseller  
21 must provide. And again, records are subject to request  
22 by the Department at any time. And these would be types  
23 of records that we would ask for.

24 Moving on to page 24 as well. Yes, department  
25 review of recipients records of resale. We don't

1 currently have a formal audit or compliance provision in  
2 the statute. But we do have the authority under this rule  
3 to request a review of records kept by recipients who  
4 resell or redisclose. And it sets forth the requirements  
5 that have to be followed in order to get the records. And  
6 they have to be provided within 30 days.

7 A provision also, in D, may result in  
8 termination of access if the request for records by the  
9 DMV is not met within that period of time. We'll move on.

10 An important provision that was added in -- if  
11 you go to page 25 of the rules, 217.129, ineligibility to  
12 receive motor vehicle records. We -- and I am not sure  
13 how long ago it was, probably a couple of years ago.  
14 Maybe it was 2018. It is stated at the bottom of the page  
15 here.

16 The Department may deny requesters access to  
17 motor vehicle records if it determines withholding the  
18 information benefits the public's interest more than  
19 releasing the information. So again, we are still talking  
20 about permissive release. We are not talking about  
21 mandatory release.

22 And what we have attempted to do, over the last  
23 year and a half or so, is to meet frequently. We have a  
24 working group here within the Department to -- under Mr.  
25 Kuntz' leadership, that meticulously goes through these

1 applications.

2 We have asked our resellers and other entities  
3 that are getting the data to reapply because there was  
4 certain criteria that Mr. Kuntz and his staff felt was not  
5 being captured to truly determine whether or not an entity  
6 had a permitted use under the statute. With, again, the  
7 overarching goal of protecting the private information,  
8 the personal information of people of Texans, being the  
9 utmost concern.

10 So, we continue to do that on an ongoing basis.

11 It is an ongoing process. And some of the  
12 recommendations, again, that I will make to you shortly  
13 will cover some of that -- those objectives, and desire  
14 again, to enhance vendor accountability and to ensure data  
15 security.

16 Data security is one of our biggest concerns.  
17 So, we need to definitely enhance that to the extent we  
18 can. We think that if we have some legislative  
19 amendments, that that will strengthen or bolster our  
20 ability to do that.

21 So, I am going to move on to the last one here.

22 Forgive me for doing this to you after lunch. I hope  
23 everybody didn't have a really big lunch. This is kind of  
24 down in the weeds of our program, as it relates to DPPA  
25 information.

1           The last rule provides for -- as you will  
2 recall, I talked on the statute under Section 730.016.  
3 The statute sets forth essentially a lifetime  
4 ineligibility for someone who has gotten the information  
5 but who has been convicted of an offense under this  
6 Chapter or violated a rule.

7           This rule under 217.130, which is on page 26 of  
8 your meeting materials, speaks to a requester whose  
9 service agreement was previously terminated, that's the  
10 key here, but who is not subject to Transportation Code  
11 730.016. This provides a mechanism for requesting  
12 reapproval from the Department, and it sets forth various  
13 criteria that a person seeking reapproval must undertake  
14 in order to get reapproved at some point. So, that takes  
15 care of that. Take a drink of water.

16           I want to move on quickly. We, at the  
17 Department -- I think we are very blessed to have an  
18 interim report issued by the American Association of Motor  
19 Vehicle Administrators, who -- which, by the way, is  
20 chaired by our Executive Director, Whitney Brewster. They  
21 issued -- a working group was formed.

22           An interim report, which I think we gave you  
23 the link to, and hopefully all of you had the chance to  
24 download it, was specifically on this topic. And that is  
25 managing data privacy, and external access, which is what

1 we are dealing with here as a state agency.

2 The interim report provides some good and  
3 useful suggestions and recommendations. The final report  
4 by AAMVA or by the AAMVA working group, we understand,  
5 will most likely be issued sometime early in 2021. So, be  
6 on the lookout for that. We can definitely provide you  
7 with a link and access to it once that comes out, when  
8 that is produced.

9 If you look at the -- hopefully, everybody has  
10 it. I am just going to touch on some of the issues that  
11 were raised in the interim report. One of them involves  
12 contracts.

13 We clearly as a Department, in Mr. Kuntz's  
14 Division have a motor vehicle information contract that  
15 individuals that are seeking the data have to sign. If  
16 you look at page 42 of the meeting materials -- let me get  
17 to that. I believe it is on 42.

18 Forty-two, it is a motor vehicle data service  
19 contract for accessing Texas motor vehicle records. That  
20 is a sample, that is marked, of what we use, that entities  
21 have to sign and agree to in order to get the information.

22 And that is ultimately signed by Mr. Kuntz.

23 The process itself involves an application  
24 initially, so that Mr. Kuntz's Division staff can  
25 thoroughly vet the information that is provided in the

1 application for access, and determine whether or not to  
2 move to the next step, or to, as we have seen in many  
3 cases, since many people have been made to reapply, to  
4 really hone in on what they are saying their permitted  
5 uses are, and if in fact, they really are what they say  
6 they are.

7 And luckily, a lot of data research online by  
8 Department staff has revealed inconsistencies and whatnot.

9 The holes in applications where an entity might represent  
10 their permitted use as X, but Division staff will go on  
11 and look at their online website, and it is clearly not  
12 what they are doing.

13 So, I assure you there is a thorough vetting  
14 process that ultimately leads to contracts, which, as I  
15 pointed out, sample is on page 42. Actually, kind of out  
16 of order, number 4 on the AAMVA report is an analysis of  
17 the request. And that involves our application.

18 On pages 28 through 50 of your books, there are  
19 various -- there are applications as well as various  
20 exhibits or attachments that need to be attached, not only  
21 to the contract, but also to the application that is  
22 submitted. So, we have met that requirement, as far as  
23 having an initial application process, which may or may  
24 not lead to a contract being executed by the Department.

25 Number five in the AAMVA recommendations or

1 interim report speaks to records management. Major  
2 concept, and issue when it relates to this particular  
3 subject matter. We do have a rule, as I mentioned  
4 earlier, under Section 217.127, which speaks to  
5 recordkeeping. This is a little bit more thorough with  
6 some of the things that we may or may not be tracking, or  
7 information retaining or securing.

8 So, there is good suggestions there. But  
9 overall, right now, we don't have a provision in Chapter  
10 730 with regards to records management. So, we are  
11 looking at making that recommendation here shortly.

12 One of the key issues for any agency, including  
13 the DMV as it relates to this particular subject matter,  
14 is compliance and audit. Being able to, periodically,  
15 whether it be by third party contract, or auditor to  
16 contract what these folks are saying they are doing with  
17 the information. And they are clearly, as the rules  
18 require, making sure those entities that they resell to,  
19 or redisclose to, are fully informed of their obligations  
20 under our law, under our rules, under our contracts, and  
21 if they are complying.

22 We have found out through this year and a half  
23 of relooking at all these contracts and vetting each  
24 entity and what they state on paper, and what they  
25 actually put on the web, that you know, there is work to



1 be done there. So, there is a request that I will mention  
2 to you in my presentation regarding an audit function  
3 which currently doesn't exist in the statute.

4 One thing that -- and also, I will be  
5 recommending AAMVA does in their interim document. They  
6 recommend that motor vehicle agencies or authorities have  
7 the right to review the data recipient and subrecipient  
8 information security processes and safeguards before  
9 providing personally identifiable information or MVA data.

10 That is something we don't do right now, is  
11 identify security processes and safeguards. We don't have  
12 that statutory right to do that. And in our opinion, I  
13 think, my opinion personally, I think that is a step in  
14 the right direction, to make sure that -- it is one thing  
15 to say and conclude that an entity has a good application  
16 and a permitted use that is allowed under the law.

17 And they can prove everything else. But if  
18 they are not going to have security processes and  
19 safeguards to protect our data, then that is problematic  
20 in the end. So, we need to -- this suggestion which is  
21 kind of far reaching. And I don't know that other states  
22 have this as far as a statutory requirement.

23 But just the ability to make this determination  
24 before any data goes out the door. So, that is an  
25 important concept to consider, part of the compliance and

1 audit function issue raised in the AAMVA interim report.

2 Misuse, they have another provision. We have  
3 provisions within our statute and rules that deal with our  
4 contract. The motor vehicle record contract addresses  
5 misuse. So, that is just something we are doing already.

6 730.015 of the Statute 730 speaks to misuse as well.

7 That was about all I wanted to go over. I hear  
8 some sighs of relief in the background. As far as the  
9 recommendations, if I can find my sheet that I was looking  
10 for. Does anybody have any questions before I move on to  
11 the next portion?

12 (No response.)

13 MR. RICHARDS: Which, what I hope to do, again  
14 -- the objective, as we have viewed it from the  
15 Department's standpoint, was to give you some background  
16 on DPPA, on the Texas Motor Vehicle Records Disclosure  
17 Act.

18 Also, the AAMVA recommendations which, in many  
19 cases, mirror ours, what we are doing right now, to some  
20 degree, not exactly. With the ultimate goal of having  
21 this particular body make recommendations through votes to  
22 the DMV Board for future legislation during the 87th  
23 Legislative Session coming up in 2021. So, if everybody  
24 is fine with that, I will go forward and just go down.

25 Presiding Officer Doran, what I would like to

1 do after I make the presentation as to each legislative  
2 concept is, if there is any discussion at that time among  
3 the members or questions for either me or Mr. Kuntz, or  
4 anyone else, DMV staff that is on this call, we can deal  
5 with that at this time.

6 If we need to take a break for five minutes or  
7 so, or we can do that. It doesn't matter. Whatever the  
8 Chair would like to do at this time.

9 But the next portion of the meeting would deal  
10 with those legislative concepts/recommendations that I am  
11 going to present to CPAC. So, what would you like to do  
12 at this time?

13 MR. DORAN: Presiding Officer Doran here. I  
14 would like to get a sense from the Committee members, if  
15 they have any questions over what you just covered.  
16 Because that was a lot of information.

17 MR. RICHARDS: Right.

18 MR. DORAN: And this is a pretty in-depth  
19 topic. And so, I want to open it up to the members, to  
20 see if they had any questions.

21 And before doing so, I did want to say, I had  
22 one question. And that is, in your processes, when  
23 someone requests this information, and the Department  
24 determines that they are not a -- this is a bad way to  
25 phrase it -- a worthy recipient, is there a set of

1 criteria that you are going off of that is applied to  
2 everyone?

3 And if that potential recipient is denied, do  
4 they have some type of appeal process that they can  
5 pursue? Or do they just resubmit, and you guys take a  
6 fresh look at them after pointing out what their  
7 deficiency was previously?

8 MR. RICHARDS: The latter is true. What we  
9 typically, or not typically, what we do, or what Mr.  
10 Kuntz' Division does is, vehicle disclosure area, is, they  
11 will completely vet an application. And Jeremiah, please  
12 step in any time you want to, if I say something  
13 incorrectly. But they vet the application. If it will  
14 come to me, I am the one that reviews as well.

15 If there are deficiencies in the application  
16 from the get-go, then the applicant is notified that more  
17 times than not, the reason is, they failed to state a  
18 permitted use to gain access to the information. What  
19 they do -- what we see most of the time is that they will  
20 resubmit for approval. They may go back and tweak.  
21 Sometimes in the permitted purpose -- go ahead. I am  
22 sorry.

23 MR. KUNTZ: So, if I could be recognized?

24 MR. DORAN: Jeremiah, you are recognized.

25 MR. KUNTZ: Thank you. Thank you. Yes. So,

1 our process, we have got kind of a two-step process for  
2 vetting applications. And there is quite a bit of work  
3 that happens on the front end before it even comes to a  
4 decision maker. I am actually the first step of the  
5 decision-making process, unless there is a legal review.

6 But we have staff that review their  
7 documentation and identify if there is any application  
8 deficiencies. So, if they forgot to include a document or  
9 any of that kind of stuff, before it even comes up to  
10 approval, they are given an opportunity to resolve that.

11 So, my staff reaches back out to them. And  
12 they say, hey. You forgot to include your license that is  
13 required. Or, you forgot to sign the documentation.

14 Once my staff have vetted that application to  
15 make sure that all the documentation is there, it comes to  
16 me for a recommendation for approval or denial. And  
17 generally, what I am looking at is the business need and  
18 the reasonableness around how they have stated their  
19 business need.

20 So, for example, I will just use the easy one,  
21 a dealership. And we get these all the time. They are  
22 very routine. A dealership comes forward and says, I need  
23 access to your system because I am verifying the ownership  
24 and lienholder interest on a vehicle that is traded in to  
25 my dealership.

1           To me, it meets the test. It is reasonable.  
2 It is allowed for under the law. It makes sense that a  
3 licensed dealer -- a dealer who has got a license is using  
4 our data for that purpose. So, there is somewhat, I  
5 guess, a reasonableness test that is applied to that.

6           Now, if we got for example, and this would be a  
7 bad example. But let's say we got for an example, an  
8 entity that says, hey. I am interested in becoming a  
9 dealership. And before I get licensed, I would like to  
10 get access to this information, so that I could look at  
11 vehicle records and, you know, try and come up with a list  
12 of clients that I would potentially contact for sales.

13           One, not a permitted purpose. It doesn't meet  
14 the test. He is not an actual licensed dealer, so he  
15 would not have a license on file. It is not reasonable  
16 that that would be a need that somebody would actually  
17 legitimately need our data for. And so, in those  
18 instances, obviously, we are going to deny it.

19           There is an opportunity. They could obviously  
20 appeal. And you know, that would go through the appeal  
21 process. But in that instance, maybe that individual goes  
22 and gets a license as a dealer, and now they are a  
23 licensed entity.

24           And they come in, and they reapply with their  
25 license. And they say, hey. I am now a licensed entity.

1 I need to be able to use this information for a permitted  
2 purpose, which is to verify ownership of a lienholder.  
3 And we would accept that application. Does that kind of  
4 help, as far as what our process looks like?

5 MR. DORAN: Yes. That is a big help. Thank  
6 you, Jeremiah.

7 (Pause.)

8 MR. DORAN: This is Presiding Officer Doran  
9 again. I just wanted to open it up for questions from the  
10 Committee.

11 MR. OLAH: Presiding Officer Doran, this is Ray  
12 Olah, Member Ray Olah. May I be recognized for a  
13 question?

14 MR. DORAN: Member Olah, you are recognized.

15 MR. OLAH: This is a question for Mr. Richards.  
16 Mr. Richards, as you were going over the statutes, there  
17 were two different parts of it, where a violation of the  
18 statute would be considered a misdemeanor offense. To  
19 your knowledge, has any violation been prosecuted as a  
20 misdemeanor? And if so, what were the results?

21 MR. RICHARDS: David Richards, for the record.  
22 May I be recognized?

23 MR. DORAN: Yes. David, you are recognized.

24 MR. RICHARDS: Member Olah, to my knowledge, I  
25 am not aware of any prosecutions under those particular

1 statutes, to which you refer. I would defer to Mr. Kuntz,  
2 who has been with the program longer than I have. He may  
3 know some.

4 But I am not aware of any since I have been  
5 associated with this particular program for about a year  
6 and a half now. So, Jeremiah, do you know of any?

7 MR. KUNTZ: Yes. So, Jeremiah Kuntz for the  
8 record. To answer that question, it is somewhat of an  
9 interesting question, because I am not aware of any  
10 instances where the Department has turned over a violation  
11 to law enforcement for prosecution.

12 That does not mean, necessarily, that we are  
13 the only source of somebody that could have been  
14 prosecuted on that. I am assuming we would know about it,  
15 if it had occurred. But I guess there is always that  
16 chance that there was a violation out there somehow, that  
17 law enforcement became aware of, and they prosecuted it  
18 without our knowledge.

19 This would be the more likely scenario that I  
20 would give you. Have we terminated access to account  
21 holders? Absolutely. We have determined that there were  
22 violations, and that they were using data for a purpose  
23 that is not authorized under the statute.

24 And we have terminated access to those entities  
25 to where they can no longer gain access to those records.



1       And I think that really speaks much more to some of the  
2       recommendations that we are looking at, really, as it  
3       pertains to not necessarily bringing criminal charges, but  
4       potentially bringing administrative action against  
5       somebody who is a contract holder with us.

6                Because in most of these instances, criminal  
7       action seems -- and again, I am not a criminal attorney.  
8       So, I can't speak to this exactly. But in many of these  
9       instances, it is a company that is gaining access. And my  
10      suspicion is, it would be difficult to find somebody to  
11      charge criminally from when it is a company that has  
12      entered into a contract and has a contractual relationship  
13      with us.

14               What we are looking at doing is changing the  
15      statute to give us more administrative teeth to  
16      administratively cite them with a financial penalty. And  
17      until such time as that financial penalty has been paid,  
18      we would deny them access.

19               Because right now, the biggest challenge we  
20      have got is, if we turn you off, that is our only stick,  
21      if you will, for a violation. You know, if you violate  
22      this, you use it for marketing purposes, something like  
23      that, we turn you off.

24               And many times, companies come back and say,  
25      okay. We understand the errors of our ways. We would

1 like to be turned back on. And we look at that very  
2 binary. You have violated. And therefore, we don't  
3 really have a means by which to ensure that you are not  
4 going to violate in the future.

5 And so, that is what we are looking at, is, are  
6 there other administrative actions we could take that  
7 would provide the Agency a better ability to have a true  
8 relationship with these entities. To where, if they  
9 violate, there is penalties to them. But it doesn't leave  
10 us in this on/off, if you will, where, if you violate it  
11 one time, you are done, you are out.

12 Does that help kind of answer that?

13 MR. OLAH: Yes. Thank you.

14 MR. KUNTZ: And so, again, for the record,  
15 Jeremiah Kuntz. I don't know. I know that David  
16 Richards, our Associate General Counsel was asking if  
17 anybody needed a break.

18 If not, I think that is kind of the segue into  
19 some of these items for consideration, if you will, about  
20 some of these administrative changes that we -- or some  
21 statutory changes we would like, that would give us  
22 greater administrative oversight over these [audio fades].

23 MR. RIGBY: Michael Rigby. I have a question.

24 MR. DORAN: Mr. Rigby, you are recognized.

25 MR. RIGBY: Thank you. I am looking at the TAC

1 rule. It is 217.124, dealing with the costs of the  
2 records. And I did try to understand. It looks like you  
3 have got 13 different ways that somebody might get  
4 information.

5 And I guess my question is twofold. One is, do  
6 all 13 ways to get the information contain this protected  
7 personal information that we are talking about today.

8 And, of the 13 ways, have you seen abuses of a  
9 particular form? Like, one of the 13, you frequently see  
10 that is the problem child, or the method that is used by  
11 folks who you had to turn off access to? Thank you.

12 MR. KUNTZ: Great questions. So, again, for  
13 the record, Jeremiah Kuntz, director of Vehicle, Title,  
14 and Registration Division. So, what you are seeing is  
15 somehow, I will give you a nuance to what you have pointed  
16 out, which you have mentioned is 13 methods by which to  
17 get records.

18 It is slightly different than that. And so, I  
19 will kind of start at the top, and I will kind of work my  
20 way down through this.

21 The first thing that you will see is motor  
22 vehicle records, and those are actual physical records.  
23 So, those are paper copies. Like, a title history, when  
24 you pay \$5.75, you are getting an actual paper copy of a  
25 title.

1           Those are generally done in person at our  
2 Regional Service Centers. And the same thing with a  
3 certified title history, a title and registration  
4 verification or records search.

5           So, those first five that you see in 217 really  
6 are physical documents that you are paying for. And  
7 generally, what we see on those documents, and I am being  
8 very general here, most of the time, it is the individual  
9 owner that is requesting their own record.

10           It might be on a title history that we have got  
11 somebody else, like an attorney, or somebody who is  
12 requesting a title history, or a court case, or something  
13 like that. But that is what those records are, in C.

14           When you go into D, we are talking about  
15 electronic motor vehicle records. And that is really the  
16 focus of what we are talking about today, is those  
17 electronic motor vehicle records. Because as you can  
18 imagine, when you provide records electronically, they can  
19 be easily shared.

20           And most of the time in D, these are not the  
21 actual owners requesting their own record. These are  
22 other entities that need to identify who the owner is.  
23 So, I will draw that distinction between the first five  
24 and the second eight. All right.

25           So, when you look at that second eight,

1 generally the breakdown that you are seeing there is the  
2 first five are really different access points. So, a  
3 master file is the actual full database.

4 So, truly when somebody starts with the Agency  
5 in obtaining records, they will request the master file,  
6 which basically prepopulates their database with all of  
7 the records. They then generally move into number two,  
8 which is weekly updates to that master file.

9 So, you load your database with the master  
10 file. And then, every week we will send you a weekly  
11 update of all the records that have changed for that last  
12 week. The next records that you see are the eTAGs file,  
13 the dealer supplemental file, and the special plate file.

14 Those are all weekly updates as well, but they are for  
15 different databases.

16 So, the weekly update is for the registration  
17 title database. The eTAGs file is the file that contains  
18 all of the paper tags that are out there on the streets.  
19 So, like your buyer's tag that a dealer issues. The  
20 dealer or supplemental file is a variation of the weekly  
21 file that has some different information in it related to  
22 dealer transactions.

23 And then, the special plate file is all of the  
24 special plates that have been ordered through our system.

25 So, this could be like, the UT plate, the A&M plate, you

1 know, Parks and Wildlife license plate. All of those  
2 license plates are in the special plate file.

3 It is a separate file, because until that  
4 license plate is associated to a vehicle in the  
5 registration title system, we may have information that is  
6 not in the main database yet. So, those first five files  
7 are really your kind of weekly databases. They are very  
8 large files. They are dense. There is a lot of  
9 information in them.

10 The next three that you get -- batch inquiry is  
11 if somebody, let's say, and I will use this as an example,  
12 a motor vehicle manufacturer needs to notify all of the  
13 Honda Accord owners in the State of Texas about a recall.

14 They may send us a list and say, here is a list of VIN  
15 numbers that we need that have outstanding recalls on  
16 them. Can you please give us all of the names and  
17 addresses associated with those VIN numbers?

18 So, we consider that a batch run, because we  
19 are running multiple license plates or VIN numbers,  
20 whatever it is, all at one time, to get all the returns.  
21 But it is a subset. And it is kind of a one-off.

22 Most of the time, somebody wants those. You  
23 know, they might only want it one time. Or they might  
24 want it periodically, or something. And they don't want  
25 to have the whole database.

1           Online motor vehicle inquiry access. This is  
2 our largest base of users. And this is our online license  
3 plate lookup tool. And so, this is the thing that most of  
4 our contract holders utilize. And you can only look up  
5 one vehicle at a time.

6           So, you type in a VIN or a license plate  
7 number, and it gives you one return. It gives you one  
8 vehicle and owner information for that one license plate  
9 or VIN you type in. So, most of our dealers, our tow  
10 truck companies, you know, all of those kind of entities  
11 that need to look up a license plate, that is how they are  
12 accessing our records.

13           Then the last one is the scofflaw remarks. And  
14 that is really, while it is costs for records, it is  
15 somewhat of a misnomer, I guess, if you will, in that  
16 these are entities that would like to block registration  
17 because a customer has failed to pay taxes or fees.

18           So let's say a customer owes property taxes to  
19 the county, and they have failed to pay the county for  
20 those property taxes. The county could put a scofflaw  
21 block that prevents the person from renewing registration  
22 for their vehicle until such time as they pay their  
23 property taxes.

24           So, when the county sends us the list of  
25 vehicles that need that remark added to them, they pay

1 twelve cents per record to add the remark, and twelve  
2 cents a record to remove the remark from our system. So,  
3 in that one, they are not really getting records back.  
4 But it is a fee for accessing our system. Does that help  
5 you understand kind of those 13?

6 MR. RIGBY: Yes, it does. Thank you. Is there  
7 one that is the source of most of DMV's problems with the  
8 inappropriate use of this information? I suspect it is  
9 the master file and the weekly updates. But if you can  
10 help me understand, where is the source of the problem.

11 MR. KUNTZ: Yes. So, we do see it in multiple  
12 places. You have hit one of them.

13 So, the entities that have been terminated or  
14 had their access suspended from our system, the big ones  
15 that I can think of, are our master file with weekly  
16 updates that were turned off, so that they could no longer  
17 get the weekly updates. We have had individuals who  
18 access the motor vehicle inquiry system, the one where you  
19 can look up a license plate.

20 Those, we have had violations where somebody  
21 has maybe looked up an individual record for a non-  
22 permitted purpose. I will use this as an example. It is  
23 not something that actually happened. But this would be  
24 an example of a violation.

25 Ex-husband has access to motor vehicle inquiry



1 access, and is trying to find the address of their ex-  
2 wife, who has got a restraining order against them, and  
3 they access our system to find her address, because he  
4 knows what her license plate number is. That would  
5 clearly be a violation of the access to our system.

6 It is not a permitted purpose. And so, if we  
7 were to be made aware that that had occurred, then we  
8 would terminate access, to where they could not do vehicle  
9 inquiries anymore.

10 MR. RIGBY: Michael Rigby. I do have a couple  
11 of follow up. I am just wondering -- I kind of hesitate  
12 to ask the question. But it sounds like with the master  
13 list and the weekly updates that you are transmitting the  
14 entire database to this party, who is purchasing it.

15 If that is true, why is it set up that way?  
16 Why isn't it that they have to interact with -- you know,  
17 log in to your website and run their searches through your  
18 website. Why do you, you know, put the database kind of  
19 out there beyond your control. Thank you.

20 MR. KUNTZ: Yes. So, another very good  
21 question. I will tell you, you have highlighted one of  
22 the reasons that when I review these contracts, when I  
23 receive a request, and kind of -- I will go back to my  
24 statement earlier of that reasonableness test.

25 When I receive an application for access to the

1 weekly file, I look at that through a very different lens  
2 than I do somebody who is requesting access to our motor  
3 vehicle inquiry system, where they are only doing single  
4 vehicle lookups. As you can imagine, with a database,  
5 where they have got the whole database and the weekly  
6 files, the ability to data mine is obviously out there.

7 That is an option for them to be able to data  
8 mine. So, when I look at those, I really have a very  
9 strict eye, because I am not -- I am wanting to make sure  
10 that we are providing extreme vetting or very, you know, a  
11 lot of scrutiny on those applications, just for the reason  
12 you have said.

13 Because now, somebody else is going to have our  
14 master file and weekly updates. They have the entire  
15 database, if you will. So, that is definitely a very  
16 different lens that I look at.

17 So, let me give you examples of the entities on  
18 that list. And I will also give you some numbers. We  
19 have less than 40 people, entities -- I say people, but  
20 entities that have access to the master file and weekly  
21 updates.

22 In comparison, we have about 2,600 contract  
23 holders that have access to our motor vehicle inquiry  
24 system. So, just by sheer numbers, there are many more  
25 people that have single vehicle lookup than there are that

1 have the database.

2 What we see on the folks that are contract  
3 holders for our data, I will just give you some examples  
4 of kind of more typical entities, governmental entities.  
5 So, toll road companies that are governmentally owned are  
6 some of our customers, if you will, of those records.

7 So, clearly, we have got government to  
8 government. There is a level of security, I guess, if you  
9 will, that you have got another governmental entity that  
10 has got the same protection or same charge with protecting  
11 that data, that we do.

12 The other entities that we see, and this is  
13 what David Richards was referring to, is resellers. And I  
14 am just going to go ahead and say, I will try not to name  
15 names, but these are large companies who are in the  
16 business of repackaging data.

17 So, while they get the personal information,  
18 many of the times they are not as interested in the  
19 personal information as they are in the statistical  
20 analysis that can be run with that data. So, there are  
21 companies that specialize in providing market research to  
22 maybe dealerships or manufacturers about the average price  
23 of vehicles sold in a certain zip code.

24 Or you know, is there a certain number of  
25 specific vehicle type that is being sold in a geographical

1 region, stuff like that. They are providing non-DPPA  
2 information to their customers, however, they got access  
3 to the full database and have obtained it for those  
4 purposes.

5 So, there is definitely a higher level of  
6 analysis that we are looking at, to again, go back to that  
7 reasonableness. Is what they are telling us they are  
8 going to be using it for reasonable, does it make sense,  
9 that it is something within a permitted purpose.

10 We are definitely looking at those. I am not  
11 looking to give somebody access to the master file and  
12 weekly updates if the MVINet access would serve them  
13 sufficiently in order to conduct their business. Does  
14 that make sense?

15 If they told me they need it for a specific  
16 purpose, and that purpose could be served by motor vehicle  
17 inquiry, individual records. We would direct them to use  
18 that system, rather than get the master file and weekly  
19 update.

20 MR. RIGBY: Michael Rigby, I think the bottom  
21 line, what I am trying to get to is, is there a technical  
22 fix. Like, could you strip out the personally  
23 identifiable information for these master file users  
24 instead of a statutory rule fix. That is kind of my  
25 question. Thanks.

1 MR. KUNTZ: Yes. So, for some of them, yes.  
2 For many of them, no. And the one, I will just kind of  
3 throw it out there, because it is our kind of 900-pound  
4 gorilla, if you will, on this. And that is the insurance  
5 industry.

6 The insurance industry a lot of times, or  
7 insurance support organizations are accessing our data,  
8 and have a need for both the non-protected, and protected  
9 information when they are doing underwriting or -- I am  
10 trying to remember what the word is right now. I am  
11 blanking out on it.

12 But basically, what they are doing underwriting  
13 or issuing insurance policies. And in a lot of these  
14 cases, what they have done is, they have built their own  
15 databases and are looking to populate this, so that they  
16 can make that transaction more seamless for their  
17 customers.

18 MR. RIGBY: Michael Rigby. Thank you.

19 MR. DORAN: Members, I just wanted to -- this  
20 is Laird Doran again, Presiding Officer. I wanted to see  
21 if there are additional questions for Jeremiah or David  
22 Richards before we move to their recommendations or  
23 suggestions.

24 MR. RICHARDS: Officer Doran, this is David  
25 Richards. May I be recognized?

1 MR. DORAN: You are recognized, David.

2 MR. RICHARDS: I just want to throw out there,  
3 if anyone needs to take a break for five minutes, we could  
4 do that as well. It doesn't matter. If we want to keep  
5 on going, then I am prepared to do that. Thank you.

6 MR. DORAN: This is Presiding Officer Doran.  
7 Yes. Let's go ahead and just take a ten-minute break.  
8 And then, we will come back on about 3:13. And we will  
9 move forward at the time. So, I guess we can go off the  
10 record at 3:04.

11 MR. RICHARDS: Correct. We will recess.  
12 Right.

13 MR. DORAN: Recess. Yes. Thank you.

14 (Whereupon, a short recess was taken at 3:04  
15 p.m.)

16 MR. DORAN: This is Presiding Officer Doran.  
17 It is now 3:13. And we are coming back from the short  
18 ten-minute recess. And we are going to resume the  
19 presentation by Mr. Richards. We are back on the record.  
20 David.

21 MR. RICHARDS: Before I start, I want to make  
22 sure we have a quorum here. Let's see. Just to confirm.

23 (Pause.)

24 MR. RICHARDS: Yes, sir. It looks like  
25 everybody is back, just on mute. Presiding Officer Doran,

1 CPAC Members, DMV staff, David Richards for the record.

2 As I stated in my opening remarks, the ultimate  
3 objective that we hope to gain from this meeting was to  
4 present to the CPAC body itself several legislative  
5 recommendations, some of which I have covered already, or  
6 alluded to, during my earlier presentation. We would like  
7 a vote on these. So, it would be a motion and a second,  
8 and a vote.

9 I have -- I thought I had seven, but I have six  
10 actually. So, let me just go ahead and jump into it, in  
11 the interest of time.

12 The first one, we would like for the CPAC to  
13 consider recommending to the DMV Board the addition of a  
14 records management requirement or requirements. And that  
15 the current records retention by entities such as  
16 resellers or others, it is set at five years, be amended  
17 to read, or to provide for ten years. So, if I could,  
18 then convening discussion, a motion and a second, we have  
19 further discussion.

20 But we would like to have CPAC vote on adding  
21 records management provision in the statute. The statute  
22 obviously would be Chapter 730 of the Transportation Code.

23 And also increase the retention or the time period that  
24 these entities that are purchasing our data or have our  
25 data have to retain records of them from five years, to

1 ten years.

2 So, I would ask for a motion. Or, I will  
3 entertain questions if you have any.

4 (Pause.)

5 MS. ESHPETER: This is Member Tiffen Eshpeter.  
6 I will make that motion.

7 MR. DORAN: Member Eshpeter has made a motion.  
8 Is there a second?

9 MS. JOHNSON: Cheryl Johnson. I will second.

10 MR. DORAN: Okay. There has been a second.

11 All right. I will call the question, then. Members, as I  
12 call your name, please state your support for the motion  
13 by stating yes, I support the motion, or no, if you do not  
14 support the motion. Member Brooks?

15 MS. BROOKS: Yes. I support.

16 MR. DORAN: Member Cavender.

17 MR. CAVENDER: Yes, I support.

18 MR. DORAN: Member Colvin.

19 (No response.)

20 MR. DORAN: Member Eshpeter.

21 MS. ESHPETER: Yes. I support.

22 MR. DORAN: Okay. Member French.

23 MR. FRENCH: Yes. I support.

24 MR. DORAN: Member Gonzalez.

25 (No response.)



1 MR. DORAN: Okay. Member Cheryl Johnson.

2 MS. JOHNSON: Yes. I support the motion.

3 MR. DORAN: Member Olah.

4 MR. OLAH: Yes. I support the motion.

5 MR. DORAN: Member Rash.

6 (No response.)

7 MR. DORAN: Member Rigby.

8 MR. RIGBY: Yes.

9 MR. DORAN: Member Smith.

10 (No response.)

11 MR. DORAN: Member Smith?

12 (No response.)

13 MR. DORAN: Member Solis.

14 (No response.)

15 MR. DORAN: And I, Laird Doran, also support  
16 the motion. So, it passes unanimously.

17 MR. RICHARDS: Thank you, Presiding Officer  
18 Doran. David Richards again, for the record. The second  
19 legislative concept or recommendation that I would like to  
20 bring to the -- or the Agency would like to bring before  
21 the CPAC body today has to do with data security and  
22 compliance.

23 I touched on it, I believe, earlier in my  
24 presentation. And what we would like is a legislative  
25 recommendation to the DMV Board, that the DMV, or the

1 Texas DMV be allowed to review and approve data security  
2 measures/safeguards, that they are in place before data is  
3 released to an applicant or a recipient from say, for  
4 example, a reseller. Approve and then determine that an  
5 entity that we are selling our data to has established  
6 appropriate data security measures and safeguards before.

7 This is something new. It is before the data  
8 is actually even released. So, that, if we can have in  
9 the form of a motion.

10 MR. DORAN: This is Presiding Officer Doran. A  
11 question for you, David.

12 MR. RICHARDS: Yes, sir.

13 MR. DORAN: Before we move forward with the  
14 motion. So, a little bit of discussion. Will there be  
15 criteria that the DMV would envision publishing on these  
16 data security measures?

17 So, for example, kind of in the commercial  
18 context, oftentimes in the business world, if somebody is  
19 going to be handling your data, you want to make sure they  
20 have cyber risk insurance, or that they are demonstrating  
21 that they are meeting certain industry standards or  
22 guidelines. Or you do some due diligence on them, that  
23 there has not been a breach, a data security breach that  
24 they have had to report to the Attorney General's office  
25 or either law enforcement.

1           So, is there already an objective set of  
2 criteria that you all are thinking about, and if you could  
3 share that. Or, so I think that is my question, is  
4 whether this would be a set list of objective criteria  
5 that requesters are being compared against.

6           MR. RICHARDS: David Richards for the record.  
7 Presiding Officer Doran, those measures, or the checklist  
8 if you will, have not been developed yet. I would suggest  
9 to you and the members of CPAC that we do contemplate  
10 coming up with a checklist and criteria, provided CPAC  
11 approves this as a recommendation and it goes forward, and  
12 is approved by the DMV Board.

13           But yes, there would be a laundry list that we  
14 would use to conduct our vetting and our due diligence to  
15 make that determination. So, it wouldn't be for the  
16 purposes of delay. We would make it as expeditious as we  
17 possibly could.

18           But yes, we would have criteria set forth that  
19 we could vet each of these security measures and  
20 safeguards to make that determination before releasing the  
21 data. But at this time, we do not have those. And  
22 therefore, wouldn't have anything to discuss with CPAC at  
23 this time.

24           MR. DORAN: Okay. Thank you.

25           MR. RICHARDS: Uh-huh.

1 MR. DORAN: Members, any further discussion on  
2 this particular item?

3 MR. CAVENDER: Chairman Doran, Member Cavender  
4 wishes to speak, please.

5 MR. DORAN: Member Cavender, you are  
6 recognized.

7 MR. CAVENDER: I just think that because these  
8 suggestions are unspecific, that we have to come up with a  
9 variety checklist. I believe in the vetted checklist. I  
10 think that is important.

11 But if we come to a vote on this, it is really  
12 going to be a general, not specific, Committee proposal.  
13 So, would we want to back away from this until we have  
14 that itemized checklist prepared to properly vote on this?

15 MR. RICHARDS: Well, again, David Richards for  
16 the record. Member Cavender, we are just asking CPAC  
17 today to vote on a general concept of allowing the  
18 Department to be able to review and approve the data  
19 security measures and safeguards that were in place.

20 This is very preliminary. Clearly, the whole  
21 concept would have to be presented to the Texas DMV Board  
22 for their approval. It would be thoroughly vetted. It  
23 would come back.

24 If they are in favor of this general concept  
25 and recommendation for legislative change, then they too,

1 I am sure, knowing them as I do, that they would want to  
2 know how that would look. I would envision coming back to  
3 CPAC in a subsequent meeting and discussing those  
4 individual elements that the DMV would use to vet security  
5 measures and safeguards by entities who are seeking our  
6 data.

7 So, we are just asking for a general approval  
8 of this concept. Again, it would allow us to review  
9 before we release. And this again, is an AAMVA  
10 recommendation as a best practice.

11 So, we feel like it stands on solid ground.  
12 And again, it is preliminary in nature. But we would  
13 still like you all to vote on the concept, the general  
14 concept of allowing us to look at it before.

15 MR. SMITH: Chairman Doran, Member Smith.

16 MR. DORAN: Member Smith, you are recognized.

17 MR. SMITH: Would it be appropriate to amend  
18 this motion to say that we are talking about a concept  
19 that would be later reviewed by this general approval,  
20 which I, like Cavender, [audio fades].

21 MR. RICHARDS: Well, Member Smith, the  
22 understanding is, all of these that I am suggesting today  
23 will be, if they require the creation of a vetting list,  
24 will be brought back to CPAC for consideration and their  
25 input. Again, we are seeking just a general concept.

1           The general concept of a legislative  
2 recommendation that entails the DMV having the ability to  
3 determine appropriate safeguards and security measures  
4 before the data is released. It is going to be something  
5 that CPAC would make to the DMV Board. They in turn, are  
6 going to want to see how it plays out, how it looks, what  
7 criteria.

8           So, not only will CPAC see it, but the DMV  
9 Board would have to see it and approve it, as far as what  
10 we can and cannot do in their minds. So, all of these  
11 concepts, legislative recommendations that I am going to  
12 present to you here now, are something that is going to be  
13 the subject of a future CPAC meeting, and clearly, a DMV  
14 Board meeting.

15           MR. DORAN: David, this is Presiding Officer  
16 Doran. Following up a little bit on what Member Smith  
17 just said, does the DMV contemplate the possibility of  
18 there being more than one set of criteria?

19           And there has been a lot of discussion today  
20 about the 40 entities that request the giant list. And  
21 that carries with it a very significant data security  
22 concern, because there is so much personal information on  
23 there, versus maybe the car dealer or the tow-truck  
24 operator that is, you know, doing more of a one-off, on a  
25 less frequent basis and is only handling information

1 belonging to one individual at a time.

2           So, as we talk about what potentially DMV might  
3 do, is that something that you all have discussed in your  
4 internal working group? That the statute could  
5 contemplate the recommendation for a statutory change,  
6 could contemplate a difference of safeguards and  
7 requirements between those more sophisticated operators  
8 that are entrusted with the entire -- the big list.

9           MR. RICHARDS: David Richards, for the record.

10          We have not had that discussion yet. Again, these are  
11 very general concepts. That would be a discussion.

12           Your point is well taken. And we would have to  
13 have that discussion at some further time. Again, we are  
14 trying to, today, zone in on just a general concept.

15           MR. KUNTZ: Chairman Doran, this is Jeremiah  
16 Kuntz. If I could be recognized?

17           MR. DORAN: You are recognized, Jeremiah.

18           MR. KUNTZ: Yes. Let me put a little process  
19 in here, that might help to kind of clarify what these  
20 recommendations are going to be used for. And maybe that  
21 will help maybe kind of bridge the gap that I am kind of  
22 hearing here.

23           So, the recommendations that are being brought  
24 forward by CPAC are recommendations that would go before  
25 our Board to be included as legislative recommendations

1 for improvements to operational efficiency to the  
2 Legislature. The Texas DMV Board, unlike many other state  
3 agencies, actually has specific statutory authority to  
4 make recommendations to the Legislature for statutory  
5 changes that would improve operational efficiency.

6 And so, what we were really looking for here,  
7 and the reason I think that Mr. Richards is kind of  
8 focused in on this as a concept is, that really what we  
9 are talking about is, bringing some concepts to the  
10 Legislature that could potentially be offered as statutory  
11 changes. So, generally, what we would see is a  
12 recommendation go to the Legislature that would grant  
13 broad authority to the Department to require as we said,  
14 you know, some kind of data protection in these contracts.

15 What we would then do, through rulemaking,  
16 would be to clarify those statutes. And that is why Mr.  
17 Richards is saying, this would ultimately come back to the  
18 Committee, albeit, at a much later date.

19 If the Department was granted that authority,  
20 we would then go in and start the efforts of actually, as  
21 you have mentioned, Chairman Doran, coming up with those  
22 very specific criteria, which would be, you know, have  
23 they had any breaches before. All of those things.

24 And so, at the risk of being too prescriptive  
25 in statute, I think that is why we trying to bring this



1 more as a concept, so that there is a recommendation to  
2 the Legislature, that yes. CPAC believes that it would be  
3 a good practice for the Department to validate and verify  
4 that there are security profiles or security provisions in  
5 place prior to somebody being granted access to our data.

6 That is really the concept we are looking at.  
7 And then, we would get much more granular with the CPAC on  
8 what those specific stringent requirements are.

9 The issue we have got is really timing. As we,  
10 you know, get real close to the legislative session  
11 starting up, it is scary to think about, that we are in  
12 July right now, and legislation will start early filing in  
13 November. It is something that we don't have a whole lot  
14 of runway to put those recommendations together on.

15 But even then, generally, we would not see very  
16 specific statutes that get down to that granularity. I  
17 hope that that helps kind of explain where we are at in  
18 that process.

19 MR. SMITH: Chairman Doran, Member Smith.

20 MR. DORAN: Member Smith, you are recognized.

21 MR. SMITH: It seems to me that the motion  
22 should be just exactly as he just stated. That the  
23 concept of additional security, as he stated wonderfully.  
24 That is my first comment.

25 My second is, exactly, if we vote on the motion

1 as it is up, how, what will be the verbiage that will  
2 convey that to the Board, the full Board? That what will  
3 it be said that CPAC voted yes to?

4 (Pause.)

5 MR. RICHARDS: Member Doran, David Richards.

6 MR. DORAN: David, you are recognized.

7 MR. RICHARDS: Member Smith, the motion would  
8 simply say that the statute be allowed, or the  
9 recommendation or concept be -- that the DMV be allowed to  
10 review and confirm that data security measures are in  
11 place before the data is released to an applicant or an  
12 authorized recipient. That would be in my opinion, the  
13 recommendation. The concept, if you will, whatever we  
14 want to call it, that would be recommended by CPAC to the  
15 Board.

16 Again, it is just, the concept is to be able to  
17 determine, as Mr. Kuntz said, if these security measures,  
18 these safeguards are in place and to be able to do that  
19 before the data is released and not after.

20 MS. ESHPETER: This is Member Eshpeter. May I  
21 be recognized?

22 MR. DORAN: Yes, Member Eshpeter, you are  
23 recognized.

24 MS. ESHPETER: So, my understanding is that we  
25 are kind of hung up on the wording versus the process.

1 And based on the process, everything will come back to get  
2 worked out.

3 And more or less, we are not doing the work in  
4 advance, in case it doesn't make it through all these  
5 other steps. Knowing that either way, it is getting  
6 kicked back. So, if that is the case, then I will go  
7 ahead and make the motion.

8 MR. RICHARDS: Chairman Doran.

9 MR. DORAN: Yes. David, you are recognized.

10 MR. RICHARDS: David Richards for the record.  
11 I just want to confirm, Member Eshpeter, that your motion  
12 is to allow the DMV to review and confirm that data  
13 security measures and safeguards are in place before data  
14 is released to an applicant or a recipient of data from a  
15 reseller, for example. Or just an applicant for data from  
16 the Department.

17 Is that essentially your motion? The pre-  
18 review?

19 MS. ESHPETER: Correct.

20 MR. RICHARDS: Okay. Thank you.

21 MR. DORAN: Members, you have heard the motion.

22 Is there a second?

23 MS. JOHNSON: Cheryl Johnson. I will second  
24 the motion.

25 MR. DORAN: Okay. There has been a second by

1 Member Johnson. All right. I will now call for the  
2 question. Members, as I call your name, please state your  
3 support for the motion by saying yes, I support the  
4 motion, or no, if you do not support the motion. Member  
5 Brooks?

6 MS. BROOKS: Yes. I support.

7 MR. DORAN: Okay. Member Cavender.

8 MR. CAVENDER: Yes, I support.

9 MR. DORAN: Member Colvin.

10 (No response.)

11 MR. DORAN: Member Eshpeter.

12 MS. ESHPETER: Yes. I support.

13 MR. DORAN: Okay. Member French.

14 MR. FRENCH: Yes. I support.

15 MR. DORAN: Member Gonzalez.

16 MR. GONZALEZ: Yes, I support.

17 MR. DORAN: Member Johnson.

18 MS. JOHNSON: Yes. I support the motion.

19 MR. DORAN: Member Olah.

20 MR. OLAH: Yes. I support the motion.

21 MR. DORAN: Member Rash.

22 MS. RASH: Yes. I support the motion.

23 MR. DORAN: Member Rigby.

24 MR. RIGBY: Yes. I support the motion.

25 MR. DORAN: Member Smith.

1 MR. SMITH: Yes.

2 MR. DORAN: Member Solis.

3 (No response.)

4 MR. DORAN: And I, Laird Doran, also support  
5 the motion. So, no opposition. It passes unanimously.

6 MR. RICHARDS: Thank you, Members. The third  
7 concept that I want to bring forward to you is currently,  
8 as my presentation alluded to earlier, under  
9 Transportation Code 730.016, a person that is deemed  
10 ineligible under that provision has a lifetime ban.

11 The legislative concept or proposal for CPAC's  
12 consideration in Item 3 is to consider an appeal process,  
13 not just a strict lifetime ban. We -- like the other  
14 provisions, where various considerations would need to be  
15 made. But that would be something that would come back --  
16 or criteria, I should say, would come back to CPAC.

17 But we are just -- we are looking here for the  
18 allowance of an appeal process for someone who is  
19 currently suffering under a lifetime ban, under 730.016.  
20 And again, I don't know how or what that would look like.

21 But again, it would come back before CPAC, at  
22 some point, for its consideration. So, we do have that in  
23 our rules currently. Someone who is not deemed to be  
24 ineligible by virtue of the statute. There is a process  
25 under our rules that allows for reapproval, submission of

1 reapproval, and various criteria that that individual or  
2 entity would have to meet.

3 Of course, that would all be vetted by the DMV  
4 as well. So, I will lay that one out for your  
5 consideration of an appeal process being a legislative  
6 concept in the future.

7 MR. DORAN: This is Presiding Officer Doran.  
8 Members, you heard Mr. Richards. Is there any discussion  
9 on this one?

10 (No response.)

11 MR. DORAN: Okay. Not hearing any discussion  
12 or questions, would somebody like to make a motion?

13 MR. FRENCH: This is Member French and I would  
14 move that the appeal process be added.

15 MR. DORAN: Okay. Member French has made a  
16 motion. Is there a second?

17 MR. OLAH: Member Olah seconds.

18 MR. DORAN: Okay. All right. I will now call  
19 for the question. Members, as I call your name, please  
20 state your support for the motion by saying yes, I support  
21 the motion, or no, if you do not support the motion.

22 Member Brooks?

23 MS. BROOKS: I abstain.

24 MR. DORAN: Okay. Member Cavender.

25 MR. CAVENDER: I support the motion.

1 MR. DORAN: Okay. Member Colvin.  
2 (No response.)  
3 MR. DORAN: Member Eshpeter.  
4 MS. ESHPETER: I support the motion.  
5 MR. DORAN: Okay. Member French.  
6 MR. FRENCH: I support the motion.  
7 MR. DORAN: Member Gonzalez.  
8 MR. GONZALEZ: I support the motion.  
9 MR. DORAN: Member Johnson.  
10 MS. JOHNSON: I support the motion.  
11 MR. DORAN: Member Olah.  
12 MR. OLAH: I support the motion.  
13 MR. DORAN: Member Rash.  
14 MS. RASH: I support the motion.  
15 MR. DORAN: Member Rigby.  
16 MR. RIGBY: I support the motion.  
17 MR. DORAN: Member Smith.  
18 MR. SMITH: Yes.  
19 MR. DORAN: Okay. Member Solis.  
20 (No response.)  
21 MR. DORAN: And I, Laird Doran, also support  
22 the motion. It passes. David, you are recognized.  
23 MR. RICHARDS: Thank you, Members, for your  
24 vote. Members, the next item I would like to present to  
25 you is the legislative concept/recommendation that the

1 statute be amended to include an administrative penalty  
2 for the misuse of the information.

3 Currently, an administrative penalty is not in  
4 the statute. There is a fine under the resale section  
5 that the offense is a misdemeanor punishable of a fine not  
6 to exceed \$25,000. But this particular concept asks for  
7 the addition or amendment of the statute to include an  
8 administrative penalty. I don't know what that amount  
9 would be.

10 We have no recommendations at this time. But  
11 just the concept of adding a penalty is what the  
12 Department is asking for by your vote.

13 MR. DORAN: This is Presiding Officer Doran  
14 again. David, a quick question. And this might be one  
15 that falls into Caroline Love's area. But is DMV going to  
16 share these recommendations with the council, the Data  
17 Privacy Council that was created during the legislative  
18 session. This is part of House Bill 4390.

19 They were tasked, a collection of 15  
20 individuals, some appointed by the Governor, some  
21 appointed by Lieutenant Governor, some appointed by the  
22 Speaker, that are supposed to be coming up with  
23 recommendations. Really studying and coming up with  
24 recommendations across a wide variety of areas on privacy  
25 and protection of information. And they are supposed to



1 be doing that during the interim.

2 Obviously, with the COVID situation, I don't  
3 think they have had an opportunity to meet in person. But  
4 I am just curious if there is a plan in place, if this is  
5 a parallel effort that DMV is doing, or if you intend to  
6 share the findings and recommendations that the Board  
7 ultimately signs off on, with this Data Privacy Council?

8 MR. RICHARDS: Presiding Officer Doran, David  
9 Richards for the record. That would be my recommendation.

10 I don't make, at my level, that decision. But I would  
11 make a recommendation that we do share.

12 I think the Department wants to be as  
13 transparent as possible. And that would be my  
14 recommendation to executive management and my boss, the  
15 General Counsel.

16 (Pause.)

17 MR. DORAN: Members, would anyone like to make  
18 a motion?

19 (No response.)

20 MR. DORAN: Is there further discussion?

21 (No response.)

22 MR. DORAN: This was on the concept of an  
23 administrative penalty for the misuse of the information.

24 MS. ESHPETER: This is Member Eshpeter. I will  
25 make that motion.

1 MR. DORAN: Thank you.

2 MS. JOHNSON: Member Johnson. I will second  
3 it.

4 MR. DORAN: Okay. There has been a motion  
5 made, and it has been seconded. I will now call the  
6 question. Members, as I call your name, please state your  
7 support by saying yes, I support the motion, or no, if you  
8 do not support the motion. Member Brooks?

9 MS. BROOKS: Yes. I support the motion.

10 MR. DORAN: Okay. Member Cavender.

11 MR. CAVENDER: I support the motion.

12 MR. DORAN: Member Cavender?

13 MR. CAVENDER: I support.

14 MR. DORAN: Okay. Sorry. I think I got you  
15 down as a yes. Okay. Member Cavender, I just want to  
16 confirm, because I know the audio wasn't great. Do you  
17 support the motion?

18 MR. CAVENDER: Yes. I support the motion.

19 MR. DORAN: Thank you. Member Colvin.

20 (No response.)

21 MR. DORAN: Member Eshpeter.

22 MS. ESHPETER: Yes. I support the motion.

23 MR. DORAN: Okay. Member French.

24 MR. FRENCH: Yes. I support the motion.

25 MR. DORAN: Member Gonzalez.

1 MR. GONZALEZ: Yes. I support the motion.

2 MR. DORAN: I am sorry. Member Gonzalez, was  
3 that support or no?

4 MR. GONZALEZ: I support the motion.

5 MR. DORAN: Okay. Thank you. Member Johnson.  
6 (No response.)

7 MR. DORAN: Member Johnson?

8 MS. JOHNSON: I support the motion.

9 MR. DORAN: Okay. Member Olah.

10 MR. OLAH: I support the motion.

11 MR. DORAN: Okay. Member Rash.

12 MS. RASH: I support the motion.

13 MR. DORAN: Member Rigby.

14 MR. RIGBY: I support the motion.

15 MR. DORAN: Member Smith.

16 MR. SMITH: I support the motion.

17 MR. DORAN: Okay. Member Solis.

18 (No response.)

19 MR. DORAN: And I, Laird Doran, also support  
20 the motion. It passes unanimously. David, you are  
21 recognized.

22 MR. RICHARDS: Thank you, Presiding Officer  
23 Doran. David Richards for the record. And thank you,  
24 Members, for your vote.

25 The next legislative concept that I would like

1 to bring before you is, currently the Department does not  
2 have the ability, statutorily or by rule, to require that  
3 an ineligible or terminated authorized recipient of the  
4 data actually destroy that data, and provide the evidence  
5 that the data has been destroyed.

6 We would like to bring before the CPAC body a  
7 legislative concept or recommendation that the statute be  
8 amended to require someone who has been terminated for  
9 misuse or violations of either the law or rules to destroy  
10 that data and provide this agency with evidence that the  
11 data has in fact been destroyed.

12 This is an AAMVA recommendation. Even the  
13 AAMVA recommendation suggests a 24-hour period, but we are  
14 not requesting a specific time period. Just a general  
15 concept of amending the statute to require a terminated or  
16 ineligible recipient to destroy the data and provide  
17 evidence to the Department of that destruction.

18 So, that would be the concept, Presiding  
19 Officer Doran.

20 MR. DORAN: Thank you. Members, is there any  
21 discussion on this one?

22 (No response.)

23 MR. DORAN: Hearing none, we would entertain a  
24 motion, if somebody would like to make a motion.

25 MR. GONZALEZ: Chairman Doran, permission to

1 speak?

2 MR. DORAN: You are recognized.

3 MR. GONZALEZ: I would like to make a motion to  
4 allow the Texas DMV to require recipients of data that  
5 needs to be destroyed provide evidence that the data has  
6 been destroyed.

7 MR. DORAN: Member Gonzalez has made a motion.  
8 Is there a second?

9 MS. JOHNSON: Member Johnson. I will second  
10 that motion.

11 MR. DORAN: Okay. There has been a motion made  
12 and a second. I will now call for the question. Members,  
13 as I call your name, please state your support for the  
14 motion by saying yes, I support the motion, or no, if you  
15 do not support the motion. Member Brooks?

16 MS. BROOKS: Yes. I support the motion.

17 MR. DORAN: Member Cavender.

18 MR. CAVENDER: I abstain, please.

19 MR. DORAN: Okay. Member Colvin.

20 (No response.)

21 MR. DORAN: Member Eshpeter.

22 MS. ESHPETER: I support the motion.

23 MR. DORAN: Member French.

24 MR. FRENCH: I support the motion.

25 MR. DORAN: Okay. Member Gonzalez.

1 (No response.)

2 MR. GONZALEZ: Member Gonzalez, you made the  
3 motion. I am assuming you support, but if you wouldn't  
4 mind responding.

5 MR. GONZALEZ: I support the motion.

6 MR. DORAN: Okay. Member Johnson.

7 MS. JOHNSON: I support the motion.

8 MR. DORAN: Okay. Member Olah.

9 MR. OLAH: I support the motion.

10 MR. DORAN: Member Rash.

11 MS. RASH: I support the motion.

12 MR. DORAN: Member Rigby.

13 MR. RIGBY: I support the motion.

14 MR. DORAN: Member Smith.

15 MR. SMITH: I am going to vote no because I  
16 think it is important that we define destroy on electronic  
17 information. It is kind of difficult.

18 MR. DORAN: Okay. Member Solis.

19 (No response.)

20 MR. DORAN: And I, Member Doran, also vote yes.

21 The motion passes. Okay. Mr. Richards, you are  
22 recognized.

23 MR. RICHARDS: Thank you, Presiding Officer  
24 Doran. David Richards for the record. Members, the last  
25 legislative concept or recommendation, also an AAMVA best

1 practices recommendation.

2 It would entail the amendment of the statute to  
3 allow the Department to have an audit function, a  
4 compliance audit function, which does not exist in the  
5 statute as of today. So again, that would have to be  
6 fleshed out as well, and come back before CPAC, if the  
7 DMV, it is on part of their legislative plate, before the  
8 Legislature.

9 But we are looking for an approval of an audit  
10 function of these entities that buy our data, to make sure  
11 -- continuing to make sure. And it would probably more  
12 than likely, because of manpower here within the  
13 Department, be a third-party audit, a periodic third party  
14 audit to make sure that the entities still had a permitted  
15 use, still also would have appropriate security safeguards  
16 and processes in place.

17 So, the concept, the legislative concept is to  
18 add an audit compliance function to the statute itself.  
19 All of these are statutory recommendations.

20 MS. JOHNSON: Member Johnson. I request to be  
21 recognized and to speak.

22 MR. DORAN: You are recognized.

23 MS. JOHNSON: I would like to move that the  
24 Department seek approval to secure or to authorize  
25 periodic and random audits on recipients of the data.

1 MR. DORAN: Okay. Member Johnson. I am going  
2 to just hold that for one second. Because I need to ask  
3 the members if there is further discussion on this item,  
4 before we take the motion up.

5 (No response.)

6 MR. DORAN: Member Richards, I am sorry -- Mr.  
7 Richards outlined the concept and the recommendation of  
8 what the Agency would like to do. And I just need to ask  
9 if we had any further discussion before taking up the  
10 motion.

11 (No response.)

12 MR. DORAN: Okay. Not hearing any, Member  
13 Johnson, would you mind just repeating your motion?

14 MS. JOHNSON: I will do the best I can. I  
15 would move that the Department seek legislative  
16 permission, if that is what necessary to perform -- to  
17 have the authority to perform periodic and random audits  
18 of recipients of the data.

19 MR. DORAN: Okay.

20 MR. OLAH: Member Olah seconds.

21 MR. DORAN: Okay. David, a question for you.  
22 Again, this is Presiding Officer Doran. Is there an  
23 opportunity to make a motion to amend this motion?

24 MR. RICHARDS: If the movant is so willing.

25 MR. DORAN: Okay.



1 MR. RICHARDS: Now is the time for discussion.

2 MR. DORAN: Yes. Okay. So, I may be a little  
3 clunky on the procedural part here. But I would like to  
4 interject the concept of reasonableness here.

5 I think Member Johnson laid out some language  
6 that talked about random and I forgot what the other  
7 terminology was. But I want to introduce the concept  
8 that, you know, the Department is going to exercise this  
9 authority, or that we are recommending that it have this  
10 authority by statute, to be exercised with some degree of  
11 reasonableness.

12 And I understand that random could be a way to  
13 spot check these processes. But I just want to make sure  
14 that it is clear that we are not recommending that the  
15 Department be targeting any particular requester or  
16 applicant unless they have a reasonable basis for feeling  
17 that the audit is necessary.

18 MR. RICHARDS: Presiding Officer Doran. This  
19 is David Richards. May I speak?

20 MR. DORAN: Yes. Please.

21 MR. RICHARDS: Member Johnson, are you willing  
22 to modify your motion, or withdraw your motion and modify  
23 it to reflect what Presiding Officer Doran has suggested?

24 MS. JOHNSON: Yes. The intent would be --  
25 permission to speak.

1 MR. DORAN: Yes. You are recognized, Member  
2 Johnson.

3 MS. JOHNSON: The purpose would be, and it  
4 might be that a back-up statement needs to be made -- is  
5 that these would not be scheduled if the Department is  
6 going to have -- because of lack of resources, have, say  
7 an outside vendor schedule and perform these, then you  
8 don't want it to be on an advertised schedule. People  
9 tend to comply when they know that something is coming.

10 And I know, collecting a half a billion dollars  
11 a year here in my office, we don't tell anybody when we  
12 are looking. We just go and look.

13 And I am sure that that would be understood.  
14 But I wanted to ensure that the -- not that they are  
15 targeting people, but that they are ensuring that there is  
16 a confidential schedule of those audits.

17 So, however that would need to be worded. I am  
18 absolutely agreeable. And it might just be that the  
19 background language would have to be explained to the  
20 Board and let them come up with it.

21 MR. DORAN: Thank you, Member Johnson.

22 MR. RICHARDS: Presiding Officer Doran, David  
23 Richards again.

24 MR. DORAN: Yes. David, you are recognized.

25 MR. RICHARDS: Perhaps we should ask the

1 members, number one, is there a second to that motion.  
2 Since Member Johnson, in my opinion, has withdrawn the  
3 original motion and modified it to reflect your concerns.

4 We would need a second. Member Olah would need  
5 to withdraw his second for the other motion, and we need a  
6 second to the new modified motion by Member Johnson.

7 MR. OLAH: This is Member Olah, I will withdraw  
8 my second. However, I am not sure I understand what is on  
9 the floor with this current motion.

10 MR. RICHARDS: Member Johnson, could you  
11 piecemeal that together again for us.

12 MS. JOHNSON: I am going to try. That the  
13 Department -- I move that the Department be granted to  
14 seek the authority to perform periodic audits of  
15 recipients of data. I guess that would be it.

16 Because you know, I would think that anybody  
17 practicing best practices would understand that you do not  
18 allow that schedule to be out there. Does that meet the  
19 Chairman's request?

20 MR. DORAN: This is Presiding Officer Doran. I  
21 was just looking to add, to what you have stated here, the  
22 concept of reasonableness.

23 And I agree with you on the need for audits, in  
24 many cases, to be unannounced and unscheduled. The  
25 reasonableness really has to do with the cadence of the

1 audits and making sure that the audit process is being  
2 conducted in a fair and reasonable manner.

3 MS. JOHNSON: So, if I add to that motion,  
4 periodic and reasonable audits?

5 MR. DORAN: I think that would be fine.

6 MR. SMITH: Chairman Doran, Member Smith.

7 MR. DORAN: Member Smith, you are recognized.

8 MR. SMITH: It seems that we ought to add to  
9 it, as well, that the audits be subject to a statutory  
10 requirement. So, you are not just going in for any  
11 reason. You are going in for a requirement. And then  
12 finally, the randomness, I understand.

13 But I don't believe there is any other Texas  
14 agency that shows up randomly without any notice. The  
15 Comptroller, the OCCC, every entity gives a notice. And  
16 maybe that is not what we are contemplating here.

17 It is just that you show up one day on the  
18 door. But it seems that notice would be appropriate for  
19 somebody, especially when most every time, there is going  
20 to be requirements for documents and information.

21 MS. JOHNSON: Member Johnson. Mr. Chairman, I  
22 ask permission to speak.

23 MR. DORAN: Member Johnson, you are recognized.

24 MS. JOHNSON: In my business, the way that we  
25 approach that -- of course, I am in government and you

1 know, we handle public funds -- is that we are provided  
2 notice January 1 each year by the county auditors' office  
3 that they will perform the audit at some time during the  
4 year. So, I am on notice that they are going to be  
5 performing, but not know specifically when they are going  
6 to arrive.

7 And that that is really much preferable, if you  
8 are talking about people that are dealing with highly  
9 confidential, potentially dangerous data. You would want  
10 to monitor what they are doing without them destroying any  
11 records in advance. And if the application says that you  
12 are subject to random audits, then that would certainly  
13 notify them, that that is a possibility that could exist.

14 MR. DORAN: Members, is there further  
15 discussion on the motion?

16 MR. RICHARDS: Presiding Officer Doran. David  
17 Richards, for the record.

18 MR. DORAN: Yes. David, you are recognized.

19 MR. RICHARDS: Members, my apologies. But the  
20 housekeeping measure, when you are not speaking, please  
21 mute your phone. There was a lot of background noise.  
22 And I don't know that everybody is hearing what is being  
23 said.

24 So, if you are not speaking or getting ready to  
25 ask to be recognized to speak, please continue to mute

1 your phone. That way, all the members and staff can hear  
2 your comments, or hear the commenter. Thank you.

3 MR. DORAN: Members, any further discussion on  
4 this particular recommendation?

5 (No response.)

6 MR. DORAN: We have had a motion made by Member  
7 Johnson, and I don't think there has been a second made  
8 for this amended motion, yet, which includes the concepts.  
9 In fact, this is what I have in my notes. Member  
10 Johnson, correct me if I am wrong.

11 But the Department should be granted the  
12 ability to seek the legislative authority to conduct  
13 periodic and reasonable audits of recipients of data. Is  
14 there a second to the motion?

15 MS. ESHPETER: This is Member Eshpeter. I will  
16 second that motion.

17 MR. DORAN: Okay. Members, you have heard the  
18 question. As I call your name, please state your support  
19 for the motion by saying yes, if you support the motion,  
20 or no, if you do not support the motion.

21 Member Brooks?

22 MS. BROOKS: Yes. I support the motion.

23 MR. DORAN: Member Cavender.

24 MR. CAVENDER: No. I do not support the  
25 motion.

1 MR. DORAN: Member Colvin.  
2 (No response.)  
3 MR. DORAN: Member Eshpeter.  
4 MS. ESHPETER: Yes. I support the motion.  
5 MR. DORAN: Member French.  
6 MR. FRENCH: No. I do not support the motion.  
7 MR. DORAN: Member Gonzalez.  
8 (No response.)  
9 MR. DORAN: Member Gonzalez.  
10 MR. GONZALEZ: Yes. I support the motion.  
11 MR. DORAN: Okay. Member Johnson.  
12 MS. JOHNSON: Yes. I support the motion.  
13 MR. DORAN: Member Olah.  
14 MR. OLAH: Yes. I support the motion.  
15 MR. DORAN: Member Rash.  
16 MS. RASH: Yes. I support the motion.  
17 MR. DORAN: Member Rigby.  
18 MR. RIGBY: Yes. I support the motion.  
19 MR. DORAN: Member Smith.  
20 MR. SMITH: Votes no.  
21 MR. DORAN: Okay. Member Solis.  
22 (No response.)  
23 MR. DORAN: And I, Laird Doran, also vote no on  
24 the motion. But I believe the motion passes.  
25 MR. RICHARDS: Presiding Officer Doran, David

1 Richards for the record.

2 MR. DORAN: David, you are recognized.

3 MR. RICHARDS: Members, I want to thank you for  
4 your votes on these recommendations and legislative  
5 concepts to go forward to the DMV Board, and for the  
6 discussion. And for all the issues you have raised with  
7 regard to each issue that was presented. So, I thank you  
8 for your votes. Thank you.

9 MR. DORAN: Members, I just have to ask if  
10 there are any other motions? I am assuming no.

11 (No response.)

12 MR. DORAN: Not hearing any, we will proceed  
13 then to Agenda Item 2B, temporary tags. Members, we will  
14 now take up Agenda Item 2B. David, I believe that we have  
15 one person who would like to comment on this Agenda Item.  
16 Is that correct?

17 MR. RICHARDS: David Richards for the record.  
18 Yes, sir. Presiding Officer Doran, Larry Cernosek had  
19 signed up online to speak on this particular agenda item.  
20 So, I will defer to my staff to make sure he is unmuted  
21 and allowed to speak. He has three minutes. Members, you  
22 are allowed to discuss or ask questions of Mr. Cernosek,  
23 should you choose to do so. Thank you.

24 MR. DORAN: Thank you, David.

25 (Pause.)



1 MR. RICHARDS: Presiding Officer Doran. This  
2 is David Richards for the record.

3 MR. DORAN: You are recognized, David.

4 MR. RICHARDS: We are going to, if it is okay  
5 with you and the Advisory Committee, give Mr. Cernosek a  
6 minute or two. He specifically requested to be on the  
7 line. We didn't -- pardon me.

8 We didn't notice that he was on the line. But  
9 I will defer to staff, here. If we could wait a minute or  
10 two. Because he did want to speak.

11 MR. DORAN: Sure. Thank you.

12 (Pause.)

13 MR. RICHARDS: Presiding Officer Doran, this is  
14 David Richards for the record.

15 MR. DORAN: David, you are recognized.

16 MR. RICHARDS: Members, Presiding Officer  
17 Doran, it appears that Mr. Cernosek, who had asked to  
18 offer a public comment during Agenda Item 2B regarding  
19 temporary tags, is not on the line. I think we have  
20 waited two or three or four minutes to have him call in.

21 We will reach out to him after this meeting to  
22 see how the DMV staff can assist him. And if he would  
23 like to come and appear, rather, on telephone, rather, at  
24 a future CPAC meeting, we will encourage him to do so.  
25 But Member Doran, or Presiding Officer Doran, I would go

1 ahead and move forward on the agenda at this time.

2 MR. DORAN: Okay. Thank you, David. All  
3 right. Members, I believe we have actually previously  
4 taken up this agenda item. So, we will move on now to  
5 Agenda Item 2D. Further meetings. Members, the Office of  
6 General Counsel will send out future meeting invites to  
7 determine membership availability.

8 MR. CERNOSEK: I don't know if they see it.

9 MR. DORAN: I will stop for a moment. I  
10 believe we have someone on the line.

11 MR. CERNOSEK: Okay. They got me.

12 MR. DORAN: Is this Larry, Mr. Larry Cernosek?

13 MR. CERNOSEK: Yes, ma'am. Yes, sir. This is  
14 me. I was having trouble. It wouldn't let me connect in  
15 on that star three. So, I just got in.

16 MR. DORAN: Okay. Well, you are with us now.  
17 And we will proceed with your three minutes. You are  
18 recognized.

19 MR. CERNOSEK: Okay. My name is Larry  
20 Cernosek. Oh, sorry. Is it okay for me to speak?

21 MR. DORAN: Yes. Please proceed.

22 MR. CERNOSEK: Okay. Chairman, Members, my  
23 name is Larry Cernosek. I have 45 years experience in the  
24 towing and storage business, and I feel like I represent  
25 all drivers that drive in our state.

1           Because temporary tags of all kinds are being  
2 issued too loosely, especially by used car dealers. And  
3 the biggest problem with that is, is that they are issuing  
4 these tags.

5           Some require insurance, and some don't. And  
6 then, they are going and cancelling the policy. Or the  
7 insurance company is restricting only to that person that  
8 is on that policy.

9           And this is a major problem. I have a storage  
10 lot full of cars because people got hit by uninsured  
11 drivers with temporary tags. Something needs to be done.

12           You can go to Facebook Market. There is about  
13 ten places on there to buy a temporary tag for \$65. Why  
14 do we let this happen? That is so illegal. But yet,  
15 nobody wants to do anything about it.

16           I filed a complaint against a used car dealer  
17 and I was called by one of the investigators. He told me  
18 they caught a dealer in Houston that sold 3,000 in one  
19 month. He only had room to park ten cars. The guy is  
20 still in business.

21           Something is wrong with this picture. The  
22 state is not protecting the public in no way, shape, or  
23 form. And something has to be done.

24           Because my daughter-in-law got hit. Caused  
25 \$10,000 damage. Her hospital bill was in excess of

1 \$100,000, and there is no coverage. What are you all  
2 going to do about this?

3 This is what you all ought to be asking  
4 yourself, when you go to sleep at night. Why are we even  
5 doing this. This is worse than the pandemic that is going  
6 on right now.

7 Temporary tags ought to be suspended, none  
8 issued in any shape or form. Shut the Facebook page down.  
9 My daughter, son-in-law worked for them. If you all  
10 can't do it, we are going to call Zuckerberg and get it  
11 done. But something has got to be done.

12 So with that, if anybody has any questions, I  
13 would be glad to answer them. But please, we have got to  
14 respect the public a little better than we are doing.

15 MR. DORAN: This is Presiding Officer Doran.  
16 Thank you so much for your testimony and your comments  
17 today. Members, if you have any questions for Mr.  
18 Cernosek.

19 MR. SMITH: Chairman Doran. Member Smith.

20 MR. DORAN: Member Smith, you are recognized.

21 MR. SMITH: I have a question for Mr. Cernosek.  
22 Are you talking about the problem with temporary tags?  
23 Or are you talking about a problem with cars with no  
24 insurance?

25 MR. CERNOSEK: No. I am talking about cars

1 with temporary tags. The law says if you drive a car on  
2 the street, you need to have insurance. And these tags  
3 are being issued without any insurance verification.

4 (Pause.)

5 MR. DORAN: Members? Is there further  
6 discussion? I think I had heard another Committee member  
7 wanting to speak.

8 MR. GONZALEZ: Chairman Doran, this is Member  
9 Gonzalez. Permission to speak?

10 MR. DORAN: Member Gonzalez, you are  
11 recognized.

12 MR. GONZALEZ: Thank you, sir. Mr. Cernosek, I  
13 would like to ask you, do you know if these cars are being  
14 bought online, or are they being purchased through a  
15 county tax office?

16 And also, a follow up question is, is the  
17 insurance being cancelled -- being allowed to be cancelled  
18 by the insurance company, or is it the individual that is  
19 cancelling the policy? Because insurance policies need to  
20 be issued in some cases, for a minimum of 30 days, or a  
21 minimum of six months. Do you have any information  
22 relevant to that? Thank you.

23 (Pause.)

24 MR. RICHARDS: Presiding Officer Doran.

25 MR. DORAN: This is Presiding Officer Doran.

1 David, can you just confirm with staff that this gentleman  
2 is still on the line?

3 MR. RICHARDS: We are trying to unmute him. It  
4 automatically mutes him after three minutes. The comment  
5 period is three minutes, but we are trying to unmute him  
6 right now. So, bear with us just a minute.

7 MR. CERNOSEK: Okay. Are we back again?

8 MR. DORAN: Yes. This is Presiding Officer  
9 Doran. Mr. Cernosek, we can hear you. Please proceed.

10 MR. CERNOSEK: Okay.

11 MR. DORAN: I think Member Gonzalez had a  
12 question for you.

13 MR. CERNOSEK: Yes. His question is -- the  
14 main problem is with the online buying of them. And so, I  
15 don't think with the county tax offices. The only problem  
16 with that is, once they buy them, they go and cancel the  
17 insurance.

18 Because it is these county mutual companies who  
19 are not required to follow all the insurance laws of a  
20 standard company. And these people are buying insurance.

21 And then in a couple of days, they cancel it, after they  
22 got their tag from the county tax office.

23 MS. RASH: Presiding Officer Doran, Member  
24 Rash. Permission to speak?

25 MR. DORAN: Member Rash, you are recognized.

1 MS. RASH: Larry, we did discuss all this. And  
2 I think you will be very pleased with some of the changes  
3 that the Department wants to make. I think one of the  
4 biggest changes would be a driver's license, a current  
5 driver's license be connected to that paper plate. So,  
6 there is some kind of identification.

7 Because we did discuss. I mean, we are both --  
8 you and I both see all this every day, by what we do. And  
9 I think that just that one thing alone, much less a couple  
10 of other things that we talked about would go a long way  
11 in getting some handle on what is going on.

12 MR. CERNOSEK: Okay. But what about the agent  
13 tags, Ms. Rash? The car dealer hasn't --

14 MS. RASH: Well -- I am sorry. Go ahead.

15 MR. CERNOSEK: Yes. The car dealer has agent  
16 tags. And we are seeing that all the time. And the first  
17 thing when the person comes to the storage lot, they are  
18 ripping that tag off. Because we normally keep them and  
19 try to file a complaint.

20 Because they are not supposed to have it. I  
21 don't know what you do about that. You know, is the car  
22 dealer liable if he gives that tag out?

23 MS. RASH: Member Rash for permission to speak  
24 again.

25 MR. DORAN: Member Rash, you are recognized.

1 MS. RASH: All right. Larry, I think so. I  
2 think that yes, the dealer, the agent, is responsible.  
3 And I think that once we clean up a lot of it, I think  
4 that you will see an improvement in a very short time.

5 So, you know, just we do need your information.  
6 And you and I both can stay on top of it. Because we are  
7 dealing with these ourselves, every day. Thank you for  
8 calling in.

9 MR. CERNOSEK: Thank you all very much. But  
10 like I said, something definitely needs to be done to  
11 protect anybody that drives on our streets.

12 MR. DORAN: This is Presiding Officer Doran. I  
13 want to thank you, as well, for calling in today, and  
14 sharing your concerns with this group.

15 And I would encourage you, as the Department  
16 moves forward with recommendations and proposed rules to  
17 deal with the situation that you continue to voice your  
18 story and your concerns, and pursue, you know, sort of  
19 making comments to the Agency so that they can be  
20 considered during that process, as well. So, thank you  
21 very much for your time today.

22 MR. CERNOSEK: Thank you all very much.

23 MR. DORAN: Thank you.

24 MR. FRENCH: Member French. May I be  
25 recognized?



1 MR. DORAN: Yes. You are recognized.

2 MR. FRENCH: If I am understanding this  
3 correctly, there is already somebody working on revising  
4 the rules to eliminate this problem, or to minimize it.  
5 Do I understand that?

6 MR. DORAN: This is Presiding Officer Doran.  
7 David, do you want to give an overview of kind of where we  
8 are as a Committee on that process?

9 MR. RICHARDS: David Richards, for the record,  
10 Presiding Officer Doran, and I believe Mr. French, Member  
11 French, we are working on those recommendations that have  
12 been made. Some of which that Member Rash alluded to in  
13 her conversation with Mr. Cernosek.

14 So, we will be moving forward on those as well  
15 as the other recommendations, such as refunds and title  
16 when the dealer goes out of business, and whatnot. So,  
17 those are all works in progress at the present time.

18 MR. FRENCH: Again, this is Member French.

19 MR. DORAN: You are recognized.

20 MR. FRENCH: Does it specifically address, or  
21 will they specifically address this question of getting a  
22 permit and dropping insurance?

23 MR. RICHARDS: Member French, David Richards  
24 for the record, I don't believe that was something that  
25 was voted upon. Jeremiah, if you are still in the call,

1 you can correct me, if I am mistaken.

2 I don't believe that specific issue was  
3 something that CPAC voted upon at one of its prior  
4 meetings on the Temp Tag issue. Jeremiah?

5 (Pause.)

6 MS. ESHPETER: This is Member Eshpeter. I have  
7 a question.

8 MR. DORAN: Member Eshpeter. You are  
9 recognized.

10 MS. ESHPETER: My question would be, is there  
11 anything in what was voted on previously, or already in  
12 the statute regarding it being illegal to sell these tags?  
13 Because based on the comments made, I did just look at  
14 Facebook Marketplace.

15 And the first -- when I look up temporary tags,  
16 you know, of the first ten things that show, eight of them  
17 are selling Texas state temporary tags, just to anyone  
18 that wants them, for \$40 to \$60 on Facebook. So, I am  
19 wondering, if there is not already something, if something  
20 should be considered to make it illegal to just sell those  
21 to anyone for any reason.

22 MS. THOMPSON: Officer Doran, this is Corrie  
23 Thompson. If I may be recognized?

24 MR. DORAN: Corrie, you are recognized.

25 MS. THOMPSON: So, I would like to distinguish

1 between licensed dealers who have access to use the eTAG  
2 system through our database, as compared to criminals who  
3 are not licensed dealers in the system, as well as  
4 criminal law, versus administrative law.

5 The Department has reached through  
6 administrative law to sanction dealers in the form of  
7 administrative penalties, now refunds, once those rules  
8 are approved. And by license sanction actions, up to and  
9 including revocation of licenses or things that are  
10 violations of Department rule or law.

11 It is already currently a violation of  
12 Department rule or law for a dealer who is licensed by the  
13 Department to misuse a temporary tag. That includes  
14 misuse of the database.

15 So, that would be issuing the wrong type of  
16 tag, issuing too many tags, issuing tags for vehicles you  
17 didn't sell. That would all subject the dealer to a  
18 violation or possible revocation of the license by the  
19 Department.

20 Many of the ads that we see on Facebook  
21 Marketplace, we either get complaints submitted from the  
22 consumer public on those. We have investigators who look  
23 at Facebook Marketplace to find those ads as well.

24 Some are linked to licensed dealers; many of  
25 them are not. Many of those are actually counterfeit tags

1 by people who are not under the Department's control.

2 And so what we do when we find the selling of  
3 those tags by non-licensed individuals is that we refer to  
4 those to our Compliance and Investigations Division,  
5 and/or to local law enforcement for handling, because  
6 those are criminal offenses.

7 MR. DORAN: Thank you, Corrie. Members, any  
8 further discussion on the public comments that were made?

9 (No response.)

10 MR. DORAN: If no, we will proceed to Agenda  
11 Item 2D, Future meetings schedule. Members, the Office of  
12 General Counsel will send out future meeting invites to  
13 determine membership availability.

14 Members, we will now take up Agenda Item 3,  
15 public comment. David, are there any comments from the  
16 public, a general public comment part of the agenda?

17 MR. RICHARDS: David Richards, OGC, for the  
18 record. No, sir. We do not have any further general  
19 public comment at this time.

20 MR. DORAN: Thank you. Okay. We will now move  
21 to Agenda Item 4, adjournment. Unless there is any  
22 further business, I would like to entertain a motion to  
23 adjourn. Do I have a motion from anyone to adjourn this  
24 meeting?

25 MR. CAVENDER: Mr. Cavender would so move.

1 MR. DORAN: Okay. Member Cavender has made a  
2 motion. Is there a second?

3 MR. RIGBY: Michael Rigby, I can second that.  
4 I do have a couple of housekeeping issues I would like to  
5 discuss before we adjourn.

6 MR. DORAN: Okay. Please proceed, Member  
7 Rigby.

8 MR. RIGBY: Yes. I was just wondering with the  
9 materials we got, in these pages of materials, a lot of it  
10 is just copies of statutes. And in the meeting itself, we  
11 are hearing from staff specific issues that they want the  
12 Committee to discuss.

13 And I was wondering if we could get those  
14 issues in writing and the agenda before we get inside the  
15 meeting. I think it would help us ask more specific  
16 questions and perhaps shorten the meeting a little bit, so  
17 we are not kind of asking irrelevant questions. So, that  
18 is my request to the staff.

19 And then, to the Presiding Officer. Once a  
20 motion is made, if we could have like a pause, or an  
21 invitation to have some discussion or follow up questions,  
22 I think that would help -- help us understand what the  
23 motion is, and illuminate any remaining issues.

24 So, those are my two requests. One to the  
25 staff and one to the Presiding Officer.

1 MR. RICHARDS: Presiding Officer Doran, David  
2 Richards.

3 MR. DORAN: David, you are recognized.

4 MR. RICHARDS: Member Rigby, we can definitely  
5 do that for you, for the CPAC members, going forward.

6 MR. DORAN: And this is Presiding Officer  
7 Doran. Member Rigby, I hear you loud and clear on the,  
8 once a motion is made, needing to pause or have an  
9 invitation to have some follow up questions. So I will  
10 definitely take that into mind, and make sure that we are  
11 abiding by that.

12 And if for some reason we are moving too  
13 quickly through an issue, please let me know. We will  
14 stop and come back to make sure that every Committee  
15 member has sufficient opportunity to raise questions and  
16 address any concerns that they have. So, thank you.

17 MR. RIGBY: Michael Rigby. Thank you.

18 MR. DORAN: Okay. Members, we have -- let me  
19 ask the question, then. Are there any other matters or  
20 concerns that any member would like to take up prior to  
21 voting on the motion to adjourn? Is there any further  
22 discussion?

23 (No response.)

24 MR. DORAN: I am not hearing any. The motion  
25 has been made and seconded to adjourn the meeting. All in

1 favor, say aye.

2 (A chorus of ayes.)

3 MR. DORAN: Any opposed?

4 (No response.)

5 MR. DORAN: Let the record reflect that the  
6 vote is unanimous. It is now 4:24, and we are adjourned.

7 Thank you, everyone.

8 MR. RICHARDS: Thank you, Members. Appreciate  
9 it.

10 (Whereupon, at 4:22 p.m., the meeting was  
11 concluded.)

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MEETING OF: TxDMV Consumer Protection Advisory  
Committee

LOCATION: Austin, Texas

DATE: July 21, 2020

I do hereby certify that the foregoing pages,  
numbers 1 through 104, inclusive, are the true, accurate,  
and complete transcript prepared from the verbal recording  
made by electronic recording by Elizabeth Stoddard before  
the Texas Department of Motor Vehicles.

DATE: July 28, 2020

/s/ Carol Bourgeois  
(Transcriber)

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