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

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

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

Under that suspension, the public will not be able to physically attend this meeting in person. Instead, the public may attend this meeting by calling the toll-free telephone number which is posted in the agenda, which was filed with the Office of the Secretary of State.
on July 13, 2020. All Advisory Committee members, including myself, will be participating remotely via Webex.

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

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

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

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

Because the number of dial-in participants is limited, if you wish to address the Advisory Committee or speak on an agenda item during today's meeting, please send an email to gco_general@txdmv.gov. Please identify in your email the specific item you are interested in commenting on.

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

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

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

This includes the authority to determine when a
speaker is being disruptive of the meeting or is otherwise violating the timing or presentation rules I just discussed. Disruptive speakers will be muted, given a warning about disruptive behavior, and then removed from the meeting for any continued disruption.

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

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

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

Member Brooks?

(No response.)

MR. DORAN: Member Cavender.

MR. CAVENDER: Present.

MR. DORAN: Member Colvin.

(No response.)

MR. DORAN: Member Eshpeter.
MS. ESHPETER: Present.

MR. DORAN: Member French.

(No response.)

MR. DORAN: Member Gonzalez.

MR. GONZALEZ: Here.

MR. DORAN: Okay. Member Cheryl Johnson.

(No response.)

MR. DORAN: Member Olah.

MR. OLAH: Present.

MR. DORAN: Member Rash.

MS. RASH: Present.

MR. DORAN: Member Rigby.

MR. RIGBY: Here.

MR. DORAN: Member Smith.

MR. SMITH: Here.

MR. DORAN: Member Solis.

(No response.)

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

Now, moving on to Agenda Item 2A, protecting DPPA information, legislative recommendations, and rulemaking recommendations. Members, the discussions will be led by Associate General Counsel David Richards of the
Texas DMV and Director of Vehicle Titles and Registration Division, Jeremiah Kuntz. I will now turn the meeting over to Mr. Kuntz and Mr. Richards.

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

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

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

And so, the federal act is called the Drivers Privacy Protection Act. The state law is in Chapter 730,
and it is the Motor Vehicle Records Disclosure Act. The state law very closely mirrors the federal law in what can and cannot be released from a motor vehicle record. And the thing that is probably easiest to really talk about as we talk about motor vehicle records, because we have lots and lots of information that is contained within our database -- but the real information that is protected is going to be the name and the address, any contact information, if you will, for an individual that associates them to a vehicle.

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

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

So, you know, the easy examples would be law enforcement needing to be able to run a license plate number on a roadside stop and know who the owner of that
vehicle is, when they are approaching the vehicle. That is our highest user of our motor vehicle data and they have a permitted purpose to access that information.

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

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

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

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

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

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

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

Motor vehicle dealers that are looking to verify the ownership of a vehicle that has been traded in to their dealership. Tow truck companies that are performing non-consent tows have a requirement to notify the owner on record that they have taken possession of
their vehicle and it is at a vehicle storage facility.

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

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

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

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

With that, I am trying to keep it short, just because I know I have given this information in some of the other meetings. And I think we wanted to move into
the recommendations, but if there are any questions regarding the statute, I would be more than happy to answer those right now.

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

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

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

It doesn't mention the vehicle owner's name. It just tells you whether that vehicle has an open recall. And I am just curious as to whether that constitutes the type of information that is subject to these two laws that you mentioned.

MR. KUNTZ: Sure. So, on page 7 of your packet, in Chapter 730, "personal information" is defined
right there, and it means information that identifies a
person, including the individual's photograph or
computerized image, Social Security number, drivers
identification number, name, address, but not the zip
code, telephone number, and medical or disability
information. And it does not include information on a
vehicle accident, a driving or equipment related
violations, driver’s license or registration status, or
information contained in an accident report.

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

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

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

MR. DORAN: Thank you. Were there any other
questions for Mr. Kuntz?

(No response.)

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

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

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

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

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

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

I will go over some of the statutory provisions, rules, and also I believe we included a link
in your meeting materials to the AAMVA interim report, Data Privacy and External Access, which is a very good source of information and much of which we already do, or will be doing, or will be following.

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

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

So, what I would like to do, and forgive me if I touch on some of the things that Mr. Kuntz had mentioned earlier. But if you go to your Board books, your CPAC meeting materials, page 6, we are going to start with the Motor Vehicle Records Disclosure Act.
Again, the overarching concern of this legislation, passed by the Texas Legislature, is to protect the interest of the individual and the individual's personal privacy by preventing disclosure and use of personal information contained in the motor vehicle record, except as authorized by the individual. And Mr. Kuntz touches on, if an individual who is the subject of a record gives his or her consent, then that can be disclosed -- or if the law provides for it.

Briefly, as Mr. Kuntz talked about, there is obviously a general prohibition and disclosure on page 7. Section 730.004, it also has a caveat or exception that there are exceptions elsewhere in the law, which there are. And we will talk about it here in a minute. Certain information can be disclosed.

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

And there is a laundry list, if you look on page 9 of your meeting materials, your meeting book. There are certain provisions that will allow for. And again, it is a permissive subsection. It is not a mandatory. We do not have to release certain information that falls under one of those subsections.
Let me see here. We have got -- and I will get probably more into it, when we get into the rules here, shortly. If you move onto page 12. Let me back up. Let me back up.

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

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

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

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

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

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

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

One of those that is found in Section 730.007. And also, there is in the statute, a recordkeeping requirement by an entity that resells or rediscloses. And they -- currently, the statute of the law requires them to maintain that record for five years and provide copies to
the agency on request by the DMV.

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

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

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

Finally, in the Motor Vehicle Records Disclosure Act, there is a provision providing for ineligibility of certain persons to receive personal information. It is under certain circumstances that requires a conviction of an offense under Chapter 730, or who violates a rule.
And also, further requirements that a sentence be imposed, and -- or they have been considered to be convicted, rather -- I am sorry, if a sentence has been imposed, or they received probation, or deferred adjudication. Or finally, the Court defers final disposition of the case.

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

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

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

The page 17 of your CPAC book basically is a road map for those items or things that are required by
the Department in order to gain access to motor vehicle
records. You will look at 217.123, and obviously, it is a
form that we have prescribed for this particular process.
And in our rule, it states, it is only going to be
released in accordance with the relevant statutes, the
DPPA, the Motor Vehicle Records Disclosure Act, and the
Texas Open Records Act, or public information act.

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

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

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

Moving on to page 22, additional documentation
the Department requires as it relates to permitted uses.
And remember, I stated that someone seeking access has to
state a permitted use that is valid under the law in order to get that. And so, as per statute, which allowed us to seek additional information, we have a rule that we have set forth.

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

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

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

You can't just say, yes. I am involved in court. I am having -- someone is suing me, or I am suing someone. You have got to actually submit proof of that legal proceeding that you are claiming as your permitted
use. Or, if no proceeding has been initiated, proof in anticipation of the proceeding.

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

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

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

But again, if XYZ Corporation is applying to get information and intends to resell it, or is going to
resell it or redisclose it, it can't be under the rule, or under the law in the identical or substantially identical format as we provided -- as the DMV provided it to them. And another requirement, XYZ Corporation may not resell or redisclose the entire motor vehicle records database in its complete bulk format.

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

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

And again, violations of rules, violations of the statutory provisions can result in fines, termination, or both. We have in the rules a provision on page 24 that
deals with records being maintained by recipients. I will bring forward to you shortly a recommendation that the statute also mirror that, that there be a records management amendment, if you will, or a recommendation to the Board for legislative change to make it part of the statute.

Currently, records by authorized recipients who resell or redisclose personal information, they are required to keep it under our rules for five years, as well as the statute. And they have certain things they need to include, as you look on page 24: name and contact information of anybody they sold it to, or redisclosed it. The permitted use, which we need to know, for the records that were released. Subsection 3 is the quantity of records sold and disclosed to each person.

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

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

Moving on to page 24 as well. Yes, department review of recipients records of resale. We don't
currently have a formal audit or compliance provision in the statute. But we do have the authority under this rule to request a review of records kept by recipients who resell or redisclose. And it sets forth the requirements that have to be followed in order to get the records. And they have to be provided within 30 days.

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

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

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

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

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

So, we continue to do that on an ongoing basis. It is an ongoing process. And some of the recommendations, again, that I will make to you shortly will cover some of that -- those objectives, and desire again, to enhance vendor accountability and to ensure data security.

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

So, I am going to move on to the last one here. Forgive me for doing this to you after lunch. I hope everybody didn't have a really big lunch. This is kind of down in the weeds of our program, as it relates to DPPA information.
The last rule provides for -- as you will recall, I talked on the statute under Section 730.016. The statute sets forth essentially a lifetime ineligibility for someone who has gotten the information but who has been convicted of an offense under this Chapter or violated a rule.

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

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

An interim report, which I think we gave you the link to, and hopefully all of you had the chance to download it, was specifically on this topic. And that is managing data privacy, and external access, which is what
we are dealing with here as a state agency.

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

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

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

Forty-two, it is a motor vehicle data service contract for accessing Texas motor vehicle records. That is a sample, that is marked, of what we use, that entities have to sign and agree to in order to get the information. And that is ultimately signed by Mr. Kuntz.

The process itself involves an application initially, so that Mr. Kuntz's Division staff can thoroughly vet the information that is provided in the
application for access, and determine whether or not to move to the next step, or to, as we have seen in many cases, since many people have been made to reapply, to really hone in on what they are saying their permitted uses are, and if in fact, they really are what they say they are.

And luckily, a lot of data research online by Department staff has revealed inconsistencies and whatnot. The holes in applications where an entity might represent their permitted use as X, but Division staff will go on and look at their online website, and it is clearly not what they are doing.

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

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

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

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

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

We have found out through this year and a half of relooking at all these contracts and vetting each entity and what they state on paper, and what they actually put on the web, that you know, there is work to
be done there. So, there is a request that I will mention to you in my presentation regarding an audit function which currently doesn't exist in the statute.

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

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

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

But just the ability to make this determination before any data goes out the door. So, that is an important concept to consider, part of the compliance and
audit function issue raised in the AAMVA interim report.

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

730.015 of the Statute 730 speaks to misuse as well.

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

(No response.)

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

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

Presiding Officer Doran, what I would like to
do after I make the presentation as to each legislative concept is, if there is any discussion at that time among the members or questions for either me or Mr. Kuntz, or anyone else, DMV staff that is on this call, we can deal with that at this time.

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

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

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

MR. RICHARDS: Right.

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

And before doing so, I did want to say, I had one question. And that is, in your processes, when someone requests this information, and the Department determines that they are not a -- this is a bad way to phrase it -- a worthy recipient, is there a set of
criteria that you are going off of that is applied to everyone?

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

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

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

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

MR. DORAN: Jeremiah, you are recognized.

MR. KUNTZ: Thank you. Thank you. Yes. So,
our process, we have got kind of a two-step process for vetting applications. And there is quite a bit of work that happens on the front end before it even comes to a decision maker. I am actually the first step of the decision-making process, unless there is a legal review.

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

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

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

So, for example, I will just use the easy one, a dealership. And we get these all the time. They are very routine. A dealership comes forward and says, I need access to your system because I am verifying the ownership and lienholder interest on a vehicle that is traded in to my dealership.
To me, it meets the test. It is reasonable. It is allowed for under the law. It makes sense that a licensed dealer -- a dealer who has got a license is using our data for that purpose. So, there is somewhat, I guess, a reasonableness test that is applied to that.

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

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

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

And they come in, and they reapply with their license. And they say, hey. I am now a licensed entity.
I need to be able to use this information for a permitted purpose, which is to verify ownership of a lienholder. And we would accept that application. Does that kind of help, as far as what our process looks like?

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

(Pause.)

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

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

MR. DORAN: Member Olah, you are recognized.

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

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

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

MR. RICHARDS: Member Olah, to my knowledge, I am not aware of any prosecutions under those particular
statistics, to which you refer. I would defer to Mr. Kuntz, who has been with the program longer than I have. He may know some.

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

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

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

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

And we have terminated access to those entities to where they can no longer gain access to those records.
And I think that really speaks much more to some of the recommendations that we are looking at, really, as it pertains to not necessarily bringing criminal charges, but potentially bringing administrative action against somebody who is a contract holder with us.

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

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

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

And many times, companies come back and say, okay. We understand the errors of our ways. We would
like to be turned back on. And we look at that very
binary. You have violated. And therefore, we don't
really have a means by which to ensure that you are not
going to violate in the future.

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

Does that help kind of answer that?

MR. OLAH: Yes. Thank you.

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

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

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

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

MR. RIGBY: Thank you. I am looking at the TAC
rule. It is 217.124, dealing with the costs of the records. And I did try to understand. It looks like you have got 13 different ways that somebody might get information.

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

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

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

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

The first thing that you will see is motor vehicle records, and those are actual physical records. So, those are paper copies. Like, a title history, when you pay $5.75, you are getting an actual paper copy of a title.
Those are generally done in person at our Regional Service Centers. And the same thing with a certified title history, a title and registration verification or records search.

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

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

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

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

So, when you look at that second eight,
generally the breakdown that you are seeing there is the first five are really different access points. So, a master file is the actual full database.

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

So, you load your database with the master file. And then, every week we will send you a weekly update of all the records that have changed for that last week. The next records that you see are the eTAGs file, the dealer supplemental file, and the special plate file. Those are all weekly updates as well, but they are for different databases.

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

And then, the special plate file is all of the special plates that have been ordered through our system. So, this could be like, the UT plate, the A&M plate, you
know, Parks and Wildlife license plate. All of those
license plates are in the special plate file.

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

The next three that you get -- batch inquiry is
if somebody, let's say, and I will use this as an example,
a motor vehicle manufacturer needs to notify all of the
Honda Accord owners in the State of Texas about a recall.
They may send us a list and say, here is a list of VIN
numbers that we need that have outstanding recalls on
them. Can you please give us all of the names and
addresses associated with those VIN numbers?

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

Most of the time, somebody wants those. You
know, they might only want it one time. Or they might
want it periodically, or something. And they don't want
to have the whole database.
Online motor vehicle inquiry access. This is our largest base of users. And this is our online license plate lookup tool. And so, this is the thing that most of our contract holders utilize. And you can only look up one vehicle at a time.

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

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

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

So, when the county sends us the list of vehicles that need that remark added to them, they pay
twelve cents per record to add the remark, and twelve
cents a record to remove the remark from our system. So,
in that one, they are not really getting records back.
But it is a fee for accessing our system. Does that help
you understand kind of those 13?

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

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

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

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

Ex-husband has access to motor vehicle inquiry
access, and is trying to find the address of their ex-
wife, who has got a restraining order against them, and
they access our system to find her address, because he
knows what her license plate number is. That would
clearly be a violation of the access to our system.

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

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

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

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

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

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

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

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

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

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

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

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

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

Or you know, is there a certain number of specific vehicle type that is being sold in a geographical
region, stuff like that. They are providing non-DPPA information to their customers, however, they got access to the full database and have obtained it for those purposes.

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

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

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

MR. RIGBY: Michael Rigby, I think the bottom line, what I am trying to get to is, is there a technical fix. Like, could you strip out the personally identifiable information for these master file users instead of a statutory rule fix. That is kind of my question. Thanks.
MR. KUNTZ: Yes. So, for some of them, yes. For many of them, no. And the one, I will just kind of throw it out there, because it is our kind of 900-pound gorilla, if you will, on this. And that is the insurance industry.

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

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

MR. RIGBY: Michael Rigby. Thank you.

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

MR. RICHARDS: Officer Doran, this is David Richards. May I be recognized?
MR. DORAN: You are recognized, David.

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

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

MR. RICHARDS: Correct. We will recess.

Right.

MR. DORAN: Recess. Yes. Thank you.

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

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

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

(Pause.)

MR. RICHARDS: Yes, sir. It looks like everybody is back, just on mute. Presiding Officer Doran,
CPAC Members, DMV staff, David Richards for the record.

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

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

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

But we would like to have CPAC vote on adding records management provision in the statute. The statute obviously would be Chapter 730 of the Transportation Code. And also increase the retention or the time period that these entities that are purchasing our data or have our data have to retain records of them from five years, to
ten years.

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

(Pause.)

MS. ESHPETER: This is Member Tiffen Eshpeter.

I will make that motion.

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

MS. JOHNSON: Cheryl Johnson. I will second.

MR. DORAN: Okay. There has been a second. All right. I will call the question, then. Members, as I call your name, please state your support for the motion by stating yes, I support the motion, or no, if you do not support the motion. Member Brooks?

MS. BROOKS: Yes. I support.

MR. DORAN: Member Cavender.

MR. CAVENDER: Yes, I support.

MR. DORAN: Member Colvin.

(No response.)

MR. DORAN: Member Eshpeter.

MS. ESHPETER: Yes. I support.

MR. DORAN: Okay. Member French.

MR. FRENCH: Yes. I support.

MR. DORAN: Member Gonzalez.

(No response.)
MR. DORAN: Okay. Member Cheryl Johnson.

MS. JOHNSON: Yes. I support the motion.

MR. DORAN: Member Olah.

MR. OLAH: Yes. I support the motion.

MR. DORAN: Member Rash.

(No response.)

MR. DORAN: Member Rigby.

MR. RIGBY: Yes.

MR. DORAN: Member Smith.

(No response.)

MR. DORAN: Member Smith?

(No response.)

MR. DORAN: Member Solis.

(No response.)

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

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

I touched on it, I believe, earlier in my presentation. And what we would like is a legislative recommendation to the DMV Board, that the DMV, or the
Texas DMV be allowed to review and approve data security measures/safeguards, that they are in place before data is released to an applicant or a recipient from say, for example, a reseller. Approve and then determine that an entity that we are selling our data to has established appropriate data security measures and safeguards before.

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

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

MR. RICHARDS: Yes, sir.

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

So, for example, kind of in the commercial context, oftentimes in the business world, if somebody is going to be handling your data, you want to make sure they have cyber risk insurance, or that they are demonstrating that they are meeting certain industry standards or guidelines. Or you do some due diligence on them, that there has not been a breach, a data security breach that they have had to report to the Attorney General's office or either law enforcement.
So, is there already an objective set of criteria that you all are thinking about, and if you could share that. Or, so I think that is my question, is whether this would be a set list of objective criteria that requesters are being compared against.

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

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

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

MR. DORAN: Okay. Thank you.

MR. RICHARDS: Uh-huh.
MR. DORAN: Members, any further discussion on this particular item?

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

MR. DORAN: Member Cavender, you are recognized.

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

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

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

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

If they are in favor of this general concept and recommendation for legislative change, then they too,
I am sure, knowing them as I do, that they would want to know how that would look. I would envision coming back to CPAC in a subsequent meeting and discussing those individual elements that the DMV would use to vet security measures and safeguards by entities who are seeking our data.

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

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

MR. SMITH: Chairman Doran, Member Smith.

MR. DORAN: Member Smith, you are recognized.

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

MR. RICHARDS: Well, Member Smith, the understanding is, all of these that I am suggesting today will be, if they require the creation of a vetting list, will be brought back to CPAC for consideration and their input. Again, we are seeking just a general concept.
The general concept of a legislative recommendation that entails the DMV having the ability to determine appropriate safeguards and security measures before the data is released. It is going to be something that CPAC would make to the DMV Board. They in turn, are going to want to see how it plays out, how it looks, what criteria.

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

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

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

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

MR. RICHARDS: David Richards, for the record. We have not had that discussion yet. Again, these are very general concepts. That would be a discussion.

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

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

MR. DORAN: You are recognized, Jeremiah.

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

So, the recommendations that are being brought forward by CPAC are recommendations that would go before our Board to be included as legislative recommendations.
for improvements to operational efficiency to the Legislature. The Texas DMV Board, unlike many other state agencies, actually has specific statutory authority to make recommendations to the Legislature for statutory changes that would improve operational efficiency.

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

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

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

And so, at the risk of being too prescriptive in statute, I think that is why we trying to bring this
more as a concept, so that there is a recommendation to the Legislature, that yes. CPAC believes that it would be a good practice for the Department to validate and verify that there are security profiles or security provisions in place prior to somebody being granted access to our data.

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

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

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

MR. SMITH: Chairman Doran, Member Smith.

MR. DORAN: Member Smith, you are recognized.

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

My second is, exactly, if we vote on the motion
as it is up, how, what will be the verbiage that will
convey that to the Board, the full Board? That what will
it be said that CPAC voted yes to?

(Pause.)

MR. RICHARDS: Member Doran, David Richards.

MR. DORAN: David, you are recognized.

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

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

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

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

MS. ESHPETER: So, my understanding is that we
are kind of hung up on the wording versus the process.
And based on the process, everything will come back to get worked out.

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

MR. RICHARDS: Chairman Doran.

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

MR. RICHARDS: David Richards for the record.

I just want to confirm, Member Eshpeter, that your motion is to allow the DMV to review and confirm that data security measures and safeguards are in place before data is released to an applicant or a recipient of data from a reseller, for example. Or just an applicant for data from the Department.

Is that essentially your motion? The pre-review?

MS. ESHPETER: Correct.

MR. RICHARDS: Okay. Thank you.

MR. DORAN: Members, you have heard the motion. Is there a second?

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

MR. DORAN: Okay. There has been a second by
Member Johnson. All right. I will now call for the 
question. Members, as I call your name, please state your 
support for the motion by saying yes, I support the 
motion, or no, if you do not support the motion. Member 
Brooks?

MS. BROOKS: Yes. I support.

MR. DORAN: Okay. Member Cavender.

MR. CAVENDER: Yes, I support.

MR. DORAN: Member Colvin.

(No response.)

MR. DORAN: Member Eshpeter.

MS. ESHPETER: Yes. I support.

MR. DORAN: Okay. Member French.

MR. FRENCH: Yes. I support.

MR. DORAN: Member Gonzalez.

MR. GONZALEZ: Yes, I support.

MR. DORAN: Member Johnson.

MS. JOHNSON: Yes. I support the motion.

MR. DORAN: Member Olah.

MR. OLAH: Yes. I support the motion.

MR. DORAN: Member Rash.

MS. RASH: Yes. I support the motion.

MR. DORAN: Member Rigby.

MR. RIGBY: Yes. I support the motion.

MR. DORAN: Member Smith.
MR. SMITH: Yes.

MR. DORAN: Member Solis.

(No response.)

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

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

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

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

But again, it would come back before CPAC, at some point, for its consideration. So, we do have that in our rules currently. Someone who is not deemed to be ineligible by virtue of the statute. There is a process under our rules that allows for reapproval, submission of
reapproval, and various criteria that that individual or entity would have to meet.

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

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

   (No response.)

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

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

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

   MR. OLAH: Member Olah seconds.

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

   Member Brooks?

   MS. BROOKS: I abstain.

   MR. DORAN: Okay. Member Cavender.

   MR. CAVENDER: I support the motion.
MR. DORAN: Okay. Member Colvin.
(No response.)
MR. DORAN: Member Eshpeter.
MS. ESHPETER: I support the motion.
MR. DORAN: Okay. Member French.
MR. FRENCH: I support the motion.
MR. DORAN: Member Gonzalez.
MR. GONZALEZ: I support the motion.
MR. DORAN: Member Johnson.
MS. JOHNSON: I support the motion.
MR. DORAN: Member Olah.
MR. OLAH: I support the motion.
MR. DORAN: Member Rash.
MS. RASH: I support the motion.
MR. DORAN: Member Rigby.
MR. RIGBY: I support the motion.
MR. DORAN: Member Smith.
MR. SMITH: Yes.
MR. DORAN: Okay. Member Solis.
(No response.)
MR. DORAN: And I, Laird Doran, also support the motion. It passes. David, you are recognized.
MR. RICHARDS: Thank you, Members, for your vote. Members, the next item I would like to present to you is the legislative concept/recommendation that the
statute be amended to include an administrative penalty for the misuse of the information.

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

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

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

They were tasked, a collection of 15 individuals, some appointed by the Governor, some appointed by Lieutenant Governor, some appointed by the Speaker, that are supposed to be coming up with recommendations. Really studying and coming up with recommendations across a wide variety of areas on privacy and protection of information. And they are supposed to
be doing that during the interim.

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

MR. RICHARDS: Presiding Officer Doran, David Richards for the record. That would be my recommendation. I don't make, at my level, that decision. But I would make a recommendation that we do share.

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

(Pause.)

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

(No response.)

MR. DORAN: Is there further discussion?

(No response.)

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

MS. ESHPETER: This is Member Eshpeter. I will make that motion.
MR. DORAN: Thank you.

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

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

MS. BROOKS: Yes. I support the motion.

MR. DORAN: Okay. Member Cavender.

MR. CAVENDER: I support the motion.

MR. DORAN: Member Cavender?

MR. CAVENDER: I support.

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

MR. CAVENDER: Yes. I support the motion.

MR. DORAN: Thank you. Member Colvin.

(No response.)

MR. DORAN: Member Eshpeter.

MS. ESHPETER: Yes. I support the motion.

MR. DORAN: Okay. Member French.

MR. FRENCH: Yes. I support the motion.

MR. DORAN: Member Gonzalez.
MR. GONZALEZ: Yes. I support the motion.

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

MR. GONZALEZ: I support the motion.

MR. DORAN: Okay. Thank you. Member Johnson.

(No response.)

MR. DORAN: Member Johnson?

MS. JOHNSON: I support the motion.

MR. DORAN: Okay. Member Olah.

MR. OLAH: I support the motion.

MR. DORAN: Okay. Member Rash.

MS. RASH: I support the motion.

MR. DORAN: Member Rigby.

MR. RIGBY: I support the motion.

MR. DORAN: Member Smith.

MR. SMITH: I support the motion.

MR. DORAN: Okay. Member Solis.

(No response.)

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

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

The next legislative concept that I would like
to bring before you is, currently the Department does not have the ability, statutorily or by rule, to require that an ineligible or terminated authorized recipient of the data actually destroy that data, and provide the evidence that the data has been destroyed.

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

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

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

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

(No response.)

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

MR. GONZALEZ: Chairman Doran, permission to
MR. GONZALEZ: I would like to make a motion to allow the Texas DMV to require recipients of data that needs to be destroyed provide evidence that the data has been destroyed.

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

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

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

MS. BROOKS: Yes. I support the motion.

MR. DORAN: Member Cavender.

MR. CAVENDER: I abstain, please.

MR. DORAN: Okay. Member Colvin.

(No response.)

MR. DORAN: Member Eshpeter.

MS. ESHPETER: I support the motion.

MR. DORAN: Member French.

MR. FRENCH: I support the motion.

MR. DORAN: Okay. Member Gonzalez.
(No response.)

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

MR. GONZALEZ: I support the motion.

MR. DORAN: Okay. Member Johnson.

MS. JOHNSON: I support the motion.

MR. DORAN: Okay. Member Olah.

MR. OLAH: I support the motion.

MR. DORAN: Member Rash.

MS. RASH: I support the motion.

MR. DORAN: Member Rigby.

MR. RIGBY: I support the motion.

MR. DORAN: Member Smith.

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

MR. DORAN: Okay. Member Solis.

(No response.)

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

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

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

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

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

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

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

MR. DORAN: You are recognized.

MS. JOHNSON: I would like to move that the Department seek approval to secure or to authorize periodic and random audits on recipients of the data.
MR. DORAN: Okay. Member Johnson. I am going to just hold that for one second. Because I need to ask the members if there is further discussion on this item, before we take the motion up.

(No response.)

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

(No response.)

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

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

MR. DORAN: Okay.

MR. OLAH: Member Olah seconds.

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

MR. RICHARDS: If the movant is so willing.

MR. DORAN: Okay.
MR. RICHARDS: Now is the time for discussion.

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

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

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

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

MR. DORAN: Yes. Please.

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

MS. JOHNSON: Yes. The intent would be -- permission to speak.
MR. DORAN: Yes. You are recognized, Member Johnson.

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

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

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

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

MR. DORAN: Thank you, Member Johnson.

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

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

MR. RICHARDS: Perhaps we should ask the
members, number one, is there a second to that motion. Since Member Johnson, in my opinion, has withdrawn the original motion and modified it to reflect your concerns.

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

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

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

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

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

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

And I agree with you on the need for audits, in many cases, to be unannounced and unscheduled. The reasonableness really has to do with the cadence of the
audits and making sure that the audit process is being conducted in a fair and reasonable manner.

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

MR. DORAN: I think that would be fine.

MR. SMITH: Chairman Doran, Member Smith.

MR. DORAN: Member Smith, you are recognized.

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

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

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

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

MR. DORAN: Member Johnson, you are recognized.

MS. JOHNSON: In my business, the way that we approach that -- of course, I am in government and you
know, we handle public funds -- is that we are provided notice January 1 each year by the county auditors’ office that they will perform the audit at some time during the year. So, I am on notice that they are going to be performing, but not know specifically when they are going to arrive.

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

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

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

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

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

So, if you are not speaking or getting ready to ask to be recognized to speak, please continue to mute
your phone. That way, all the members and staff can hear
your comments, or hear the commenter. Thank you.

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

(No response.)

MR. DORAN: We have had a motion made by Member
Johnson, and I don't think there has been a second made
for this amended motion, yet, which includes the concepts.

In fact, this is what I have in my notes. Member
Johnson, correct me if I am wrong.

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

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

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

Member Brooks?

MS. BROOKS: Yes. I support the motion.

MR. DORAN: Member Cavender.

MR. CAVENDER: No. I do not support the
motion.
MR. DORAN: Member Colvin.

(No response.)

MR. DORAN: Member Eshpeter.

MS. ESHPETER: Yes. I support the motion.

MR. DORAN: Member French.

MR. FRENCH: No. I do not support the motion.

MR. DORAN: Member Gonzalez.

(No response.)

MR. DORAN: Member Gonzalez.

MR. GONZALEZ: Yes. I support the motion.

MR. DORAN: Okay. Member Johnson.

MS. JOHNSON: Yes. I support the motion.

MR. DORAN: Member Olah.

MR. OLAH: Yes. I support the motion.

MR. DORAN: Member Rash.

MS. RASH: Yes. I support the motion.

MR. DORAN: Member Rigby.

MR. RIGBY: Yes. I support the motion.

MR. DORAN: Member Smith.

MR. SMITH: Votes no.

MR. DORAN: Okay. Member Solis.

(No response.)

MR. DORAN: And I, Laird Doran, also vote no on the motion. But I believe the motion passes.

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

MR. DORAN: David, you are recognized.

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

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

(No response.)

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

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

MR. DORAN: Thank you, David.

(Pause.)
MR. RICHARDS: Presiding Officer Doran. This is David Richards for the record.

MR. DORAN: You are recognized, David.

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

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

MR. DORAN: Sure. Thank you.

(Pause.)

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

MR. DORAN: David, you are recognized.

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

We will reach out to him after this meeting to see how the DMV staff can assist him. And if he would like to come and appear, rather, on telephone, rather, at a future CPAC meeting, we will encourage him to do so.

But Member Doran, or Presiding Officer Doran, I would go
ahead and move forward on the agenda at this time.

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

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

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

MR. CERNOSEK: Okay. They got me.

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

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

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

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

MR. DORAN: Yes. Please proceed.

MR. CERNOSEK: Okay. Chairman, Members, my name is Larry Cernosek. I have 45 years experience in the towing and storage business, and I feel like I represent all drivers that drive in our state.
Because temporary tags of all kinds are being issued too loosely, especially by used car dealers. And the biggest problem with that is, is that they are issuing these tags.

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

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

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

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

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

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

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

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

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

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

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

MR. SMITH: Chairman Doran. Member Smith.

MR. DORAN: Member Smith, you are recognized.

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

MR. CERNOSEK: No. I am talking about cars
with temporary tags. The law says if you drive a car on
the street, you need to have insurance. And these tags
are being issued without any insurance verification.

(Pause.)

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

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

MR. DORAN: Member Gonzalez, you are
recognized.

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

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

(Pause.)

MR. RICHARDS: Presiding Officer Doran.

MR. DORAN: This is Presiding Officer Doran.
David, can you just confirm with staff that this gentleman is still on the line?

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

MR. CERNOSEK: Okay. Are we back again?

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

MR. CERNOSEK: Okay.

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

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

Because it is these county mutual companies who are not required to follow all the insurance laws of a standard company. And these people are buying insurance. And then in a couple of days, they cancel it, after they got their tag from the county tax office.

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

MR. DORAN: Member Rash, you are recognized.
MS. RASH: Larry, we did discuss all this. And I think you will be very pleased with some of the changes that the Department wants to make. I think one of the biggest changes would be a driver’s license, a current driver’s license be connected to that paper plate. So, there is some kind of identification.

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

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


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

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

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

MR. DORAN: Member Rash, you are recognized.
MS. RASH: All right. Larry, I think so. I think that yes, the dealer, the agent, is responsible. And I think that once we clean up a lot of it, I think that you will see an improvement in a very short time. So, you know, just we do need your information. And you and I both can stay on top of it. Because we are dealing with these ourselves, every day. Thank you for calling in.

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

MR. DORAN: This is Presiding Officer Doran. I want to thank you, as well, for calling in today, and sharing your concerns with this group. And I would encourage you, as the Department moves forward with recommendations and proposed rules to deal with the situation that you continue to voice your story and your concerns, and pursue, you know, sort of making comments to the Agency so that they can be considered during that process, as well. So, thank you very much for your time today.

MR. CERNOSEK: Thank you all very much.

MR. DORAN: Thank you.

MR. FRENCH: Member French. May I be recognized?
MR. DORAN: Yes. You are recognized.

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

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

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

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

MR. FRENCH: Again, this is Member French.

MR. DORAN: You are recognized.

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

MR. RICHARDS: Member French, David Richards for the record, I don't believe that was something that was voted upon. Jeremiah, if you are still in the call,
you can correct me, if I am mistaken.

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

(Pause.)

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

MR. DORAN: Member Eshpeter. You are recognized.

MS. ESHPETER: My question would be, is there anything in what was voted on previously, or already in the statute regarding it being illegal to sell these tags?

Because based on the comments made, I did just look at Facebook Marketplace.

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

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

MR. DORAN: Corrie, you are recognized.

MS. THOMPSON: So, I would like to distinguish
between licensed dealers who have access to use the eTAG system through our database, as compared to criminals who are not licensed dealers in the system, as well as criminal law, versus administrative law.

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

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

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

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

Some are linked to licensed dealers; many of them are not. Many of those are actually counterfeit tags
by people who are not under the Department's control.

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

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

(No response.)

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

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

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

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

MR. CAVENDER: Mr. Cavender would so move.
MR. DORAN: Okay. Member Cavender has made a motion. Is there a second?

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

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

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

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

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

So, those are my two requests. One to the staff and one to the Presiding Officer.
MR. RICHARDS: Presiding Officer Doran, David Richards.

MR. DORAN: David, you are recognized.

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

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

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

MR. RIGBY: Michael Rigby. Thank you.

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

(No response.)

MR. DORAN: I am not hearing any. The motion has been made and seconded to adjourn the meeting. All in
favor, say aye.

(A chorus of ayes.)

MR. DORAN: Any opposed?

(No response.)

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

Thank you, everyone.

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

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

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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