TEXAS DEPARTMENT OF MOTOR VEHICLES

BOARD MEETING

10:30 a.m.
Thursday,
January 14, 2010

Ric Williamson Hearing Room
Dewitt Greer Building
125 East 11th Street
Austin, Texas

BOARD MEMBERS:

Victor Vandergriff, Chair Cliff Butler Jim Campbell Ramsay Gillman Cheryl E. Johnson Janet Marzett Victor Rodriguez Marvin Rush Johnny Walker

STAFF MEMBERS:

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PROCEEDINGS

MR. VANDERGRIFF: Good morning. My name is Victor Vandergriff and I'm pleased to welcome you today to the meeting of the board of the Department of Motor Vehicles on January 14, 2010. I'm now calling our meeting to order, and 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 January 6, 2010.

Before we begin today's meeting, please place all cell phones and other communication devices in the silent mode, and if you wish to address the board during today's meeting, please complete a speaker's card at the registration table in the lobby. To comment on an agenda item, please complete a yellow card and identify the agenda item; if it is not an agenda item, we will take your comments during the public comment portion of the meeting.

And now I'd like to have a roll call, please, of the board members. Board Member Butler?

MR. BUTLER: Here.

MR. VANDERGRIFF: Board Member Campbell?

MR. CAMPBELL: Here.

MR. VANDERGRIFF: Board Member Gillman?

1	MR. GILLMAN: Here.
2	MR. VANDERGRIFF: Board Member Johnson?
3	MS. JOHNSON: Here.
4	MR. VANDERGRIFF: Board Member Marzett.
5	MS. MARZETT: Here.
6	MR. VANDERGRIFF: Board Member Rodriguez?
7	MR. RODRIGUEZ: Present, here.
8	MR. VANDERGRIFF: Board Member Rush?
9	MR. RUSH: Here.
10	MR. VANDERGRIFF: Board Member Walker?
11	MR. CAMPBELL: Present.
12	MR. VANDERGRIFF: And let the record reflect
13	that I'm Chairman Vandergriff. We do have a quorum.
14	With that, I would go into the first item of
15	business 1.B and that is public comment. I would invite
16	anyone from the public who wishes to address us. I know
17	we have a comment section coming forward on rules and I
18	believe we have some speakers who have signed up for that,
19	but is there anyone in the public who would like to speak
20	to us today on some issue? Come forward, please, sir, an
21	identify yourself. Go ahead, if you have a comment, that
22	would be great.
23	LT. HANSEN: Congratulations, first of all, on
24	your creation. I spent many days at the Capitol in your
25	corner here. I'm Lieutenant Tommy Hansen with the

Galveston County Sheriff's Office and I represent the National Association of Auto Theft Investigators which encompasses 43 countries and has 5,000 members, as well as the Texas Association of Vehicle Theft Investigators.

Anyway, representing these two organizations, I wanted to share with you a quick comment on the Auto Theft Prevention Authority which comes under your purview. I've been blessed, was the author of the original legislation that created this beginning in 1989 and which the legislation was passed in 1991. Mr. Rodriguez here, he and I shared many days in the bottom basement of the legislative building trying to get this bill passed when it was created.

The ATPA's success has been second to none worldwide. I can assure you that we are the role model for the world and we want you to know that so that you will be proud of what you represent. Through the International Auto Theft Investigators, I've done presentations in Europe, Australia, three Canadian provinces, multiple states, and including the country of Mexico concerning the Auto Theft Prevention Authority in Texas as a role model for their organization. Multiple Canadian provinces and states now have programs that are almost a mirror image of ours, including 13 states, I believe, use our promotional materials because it's on the

dime and it does what it's supposed to do.

So I wanted to share that with you. We've been successful in reducing auto theft 50 percent in the State of Texas since 1991 and we've increased recovery rates about 20 percent. But please don't let that be a misconception; motor vehicle thefts are down but the increased violence and the commission of other crimes and fraud involving motor vehicle theft is increasing on a day-to-day basis, particularly with the ongoing gang wars and things that are starting to increase throughout the State of Texas, and nobody uses their own car to do drive-by shootings and smuggle drugs, they use your stolen cars. So there is a totally different aspect versus the days of the joy-riders many years ago.

So I wanted to share that with you and let you know that we're in your court and that you have a lot of resources out there through various auto theft associations in Texas to give you and forward you any information that you need concerning the Auto Burglary and Theft Prevention Authority. The board they have over there is outstanding. Mr. Caldwell and them run a tight ship, and I think the numbers that the program has done for the State of Texas, probably in the billions of dollars in savings to the citizens, speaks for itself.

So we're glad to be a part of your organization

but I wanted to share that we are here for you and there 1 2 are a lot of resources out there and that we're a phone call away. Ms. Johnson knows how to find me on any given 3 day; we share the same building. Any questions? 4 5 MR. RODRIGUEZ: Mr. Chairman, if I may? MR. VANDERGRIFF: Sure. 6 7 MR. RODRIGUEZ: Tommy, I just want to tell you and to thank you on behalf of many, many Texans and Texas 8 on the whole that have benefitted from the ATPA, now the 9 10 ABTPA, or something close to that. 11 LT. HANSEN: It started out as the ATPA, Auto 12 Theft Authority, and then the session before last they added burglary to our responsibilities since we did such a 13 14 wonderful job in reducing thefts, but unfortunately, there 15 were no funds with that so that's a matter that we're going to address this coming session, but we are still 16 going to try to handle that. 17 18 MR. RODRIGUEZ: Just please accept my thanks 19 for all you've done for all these 20 years in this regard. LT. HANSEN: It's been an honor; it's a worthy 20 21 Any other questions? cause. MR. VANDERGRIFF: Yes, I would ask, can you 22 23 give me or give this committee you mentioned that you were

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going to in the next session address the funding for the

Burglary part -- is there something you would like to

24

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address there?

LT. HANSEN: Well, let me explain to you what happened. In 1997 when this program first started it had dedicated fund status which obviously gave us 100 percent of the monies collected and then we were also able to maintain the interest of the money and rollover money.

And in 1997 there was a watchdog group -- and forgive me, I can't remember the name -- but we got caught on the very bottom of a bill at the eleventh hour of the session; that bill passed and we immediately overnight lost our dedicated fund status.

And since that time it's been a roller coaster process with our funding because the State of Texas -- I want to be politically correct -- they do assess some of our funds to use elsewhere in state government and not strictly for auto theft. Unfortunately, we can't get away without grant money but the state has done that, and it's fluctuated as high as 34 percent in one session.

The problem with that is that costs personnel which affects the level of service and there's not a taxing agency in the country -- and I think our tax collector can support this -- that could operate under the same assessment for 15 or 16 years and still maintain a level of service.

So what's had to happen over the recent years

is that the cost of fuel and the cost of salaries and the cost of benefits have increased; yet we're still operating under this \$1 assessment and now we've had burglary added to our till. What's had to happen in the last several sessions is that the local agencies -- most of these task forces are funded pretty much, I would say, really pretty much without any issue about 50-50 funding to maintain a level of service and that's supported by the local police departments, the local sheriff's offices, cities and counties, and I can tell you that their belts are tightening too, and I think most of the task forces will tell you -- and we have 29 of them across the state -- that we've just about gone to that well for the last time.

So to expect us to maintain the level and to continue serving the citizens to where they deserve to, we're going to have to come up with some additional funding just to maintain survivability on basic things such as salaries and fuel costs.

So in the last session we have gotten our appropriations increased by the budget group over the last session which was good and it was a great help. We did have one of our representatives that was instrumental in helping with several things, including some of your stuff, had brought up the fact of dedicated fund status again. I

think dedicated fund status, if we got all the money that's currently collected, would probably only bring us up to survivability level, would not help us address the increased responsibility of burglary of a motor vehicle --which there are many more car burglars than there are car thieves and there are many more car burglaries than there are cars stolen. So that is a very difficult crime to focus on and so we're looking to address that; we're going to need some resources to know that we can do this --obviously we can because we did it already with the auto theft.

So future funding for survivability of this program is of utmost importance. I think the dedicated fund status would surely put us at a stable state. Number one, it would let us know every session how much money we're going to get. Now we don't know -- we know what's coming in but we don't know what the State is going to give, so you have to play that, and we've survived but it's been a tough go. But again, the local agencies have picked up the tab and I think we're not going to be able to go to that well too much longer, so it is important that we do try to find increased funding.

MR. VANDERGRIFF: Lieutenant Hansen, I want to note for the record that -- and this is a very good informative bit of information for us and I've got a

couple of followup questions -- but I want to note for the record first that, as is our purview, we're jumping ahead a little bit by virtue of the discussion. I want to jump ahead and we're going to consider this also item 2.E on our agenda which is the Automobile Burglary and Theft Prevention Authority.

LT. HANSEN: The working agreement.

MR. VANDERGRIFF: Well, not so much the working agreement yet but just so we can have kind of -- the public comment section is usually just a few minutes of speech with no questions back from us, but we've gotten on to this topic. I think it's a great one that we talk about, so we're going to move up a little bit, or back, however you want to look at it, on the agenda. So therefore, if any of the members have any questions, I'll defer to them first and then I have a couple.

LT. HANSEN: But even with the reduction in thefts of motor vehicles, motor vehicle crimes are still the most costly crime in the United States as far as what you pay for in your insurance policies and what they come out cost-wise, and so it is still an extremely important issue we need to address.

MR. VANDERGRIFF: I certainly agree, and I know in the last legislative session those of us who became aware of your funding needs, and at that time I think

Chief Carlos Garcia -- certainly had extensive discussions with him and believed in getting you into the General Revenue Fund and get some additional funds that you were owed.

LT. HANSEN: Well, our avenue with this is that obviously the board members of the Auto Theft Prevention Authority Board are not allowed to lobby. There can surely be resources which obviously Carlos and all the board and Charles are phenomenal resources, but as far as our auto theft associations who support and actually carried the original legislation to create this authority, we have a vested interest in it, obviously, so when we do this we take it from our perspective as far as going after it from our association's angle which represents a broad spectrum from El Paso to Beaumont and Amarillo to Brownsville.

So we're here to provide you with any resource that you wish at any given time and on any committees that you wish. We have a tremendous amount of resources here for you.

MR. VANDERGRIFF: We appreciate that. I would encourage you -- and I know by virtue of you coming here this morning to talk with us, you're going to do this -- but encourage you to work with us and particularly the legislative committee that's being stood up. I think

there's a coordination of effort here throughout the needs of this agency and the various divisions that would be appropriate. And I know we're also going to be facing, I think, a request in the legislature to increase a lot of fees that affect this industry by virtue of them looking for transportation funding. So hopefully, we can call upon you and the members of your association to work with us so we're out in front together on what we need to get for your agency.

LT. HANSEN: We're here for you guys 100 percent, whatever you need.

MR. VANDERGRIFF: Any of the board members have any questions? No further questions for Lieutenant Hansen?

MS. JOHNSON: Can I make a comment, Mr. Chairman?

MR. VANDERGRIFF: Absolutely, please.

MS. JOHNSON: Lieutenant Hansen, thank you for your presentation and input this morning, and as these committees are formed, we will be working with you. I would appreciate it if you could identify -- because we're both in Galveston County and obviously we're suffering a lot of other issues right now in that county -- if you could help me understand at a future date the amount of money that is being taken out of local governments in

order to supplement what you are doing in Galveston 1 because it's been very successful. 2 LT. HANSEN: Oh, yes, we can give you an exact 3 figure what the local match is, and every grant has 4 5 document of all the local match, and really, the local 6 match is usually a pretty conservative figure. 7 MS. JOHNSON: Thank you very much. LT. HANSEN: Thank you, ladies and gentlemen. 8 MR. CAMPBELL: One question real quick. What 9 10 percentage of the money that you bring in to -- I guess 11 it's Fund 1, what percentage are you able to take back out 12 of it? At one point it was 100 percent. Do you know what 13 percentage it is now? 14 LT. HANSEN: I think we're losing about \$2- or 15 \$3 million. 16 MR. CAMPBELL: About \$3 million. LT. HANSEN: That's collected that we do not 17 18 get. 19 MR. CAMPBELL: Shouldn't that be your first approach to try to get back to 100 percent of what you're 20 bringing in maybe? 21 LT. HANSEN: Well, you have to understand when 22 23 you're dealing with the legislature you have to be politically correct, and many of you know this. And you 24 have to pick and choose your battles, and depending the 25

atmosphere of the session, mentioning dedicated fund status is an executionable offense.

So over the last several sessions prior, we couldn't even begin to go there; it was not going to happen. The last session -- actually the last two sessions -- but the last session was very favorable, we did get an increased appropriation out of the money that was collected over the last couple of sessions, and I think just the creation and the support that was given to create your program speaks for itself.

And like I said, I've spoken with several legislators who brought this up the last session -- what we wanted to focus the big focus on was to get your bill passed and then move to that next, and so I think we have a few representatives and senators that are considering going after the dedicated fund status for us again. But that's somewhat of a taboo word across the street sometimes so you have to pick and choose your battle based on the atmosphere. No two days are alike over there. If you've been there, you know what I'm talking about, and I know you have.

MR. VANDERGRIFF: Any additional questions on this part? We'll stay on 2.E. I don't know if Charles is in the back. Oh, there he is; you realized we were talking about you.

1	MR. RODRIGUEZ: Just one more item, Mr.
2	Chairman.
3	MR. VANDERGRIFF: Sure, please.
4	MR. RODRIGUEZ: As it stands right now, the fee
5	that we are using is a fee that's 20 years old, it hasn't
6	increased at all.
7	LT. HANSEN: It is the original assessment
8	amount that was set and started in 1991.
9	MR. RODRIGUEZ: And if for some reason we were
10	able to support the increment of that of 100 percent
11	let's say it went to \$2, that would do a tremendous amount
12	of good in Texas, wouldn't it?
13	LT. HANSEN: Oh, absolutely. I think in the
14	meeting this morning there were several options up there
15	but one option was brought up, I think by Mr. Walker, that
16	trying to ask for additional monies versus you're not
17	spending what you're getting now but you're not getting
18	everything that you're getting now.
19	MR. RODRIGUEZ: The point I'm saying is that
20	we're operating this program on a 20-year-old fee
21	LT. HANSEN: Absolutely, yes.
22	MR. RODRIGUEZ: and not getting all of it.
23	MR. VANDERGRIFF: Lieutenant, one thing I would
24	say is that you mentioned that it was your agenda and I
25	took no disrespect from that whatsoever, but I want to

make sure and note to you that I hope we'll get a culture together within this agency and with all the industries that we work with that it's our agenda, and so I want to assure you that what your needs are is going to be part of our agenda as well.

LT. HANSEN: Well -- and keep in mind that all these task forces on the law enforcement aspect -- most of the crimes we work are the Vehicle Titles and Registration which is yours, motor carrier, stolen trucks, stolen cargo. If it rolls, floats or moves, most of these guys work it, which all comes under your purview. So it may be indirectly but somehow or other what the task forces for Auto Burglary and Theft Prevention Authority are out here doing comes in direct contact with your world and almost every aspect of your new Department of Motor Vehicles.

MR. VANDERGRIFF: And I appreciate that but I guess my point is that your agenda is our agenda; we're on the same team.

LT. HANSEN: We appreciate that. We are, thank you.

MR. VANDERGRIFF: Charles, we jumped into 2.E because Lieutenant Hansen had some public comment and it was important for us to ask some questions on the fee structure and the revenue coming in to the department, so I guess if you have any further to add on that, it would

be great, if the members have any questions of Charles.

MR. CALDWELL: I'll answer any questions.

MR. WALKER: I have a question now that Charles is here because I don't think the lieutenant will be able to answer my question, but Charles -- and I had the privilege, I guess, of sitting down maybe more than the rest of the board members and sit down and talk to you a little about where our funds come from and how they're created and so forth. But before I go to the well over at the legislature and ask for more money over there, we need to exert and make sure we're getting all the money that we're entitled to over here.

And it's my understanding, from a conversation I think I had with you and from reading some stuff, that we're not even collecting 100 percent of available monies out there, excluding the dedicated money because we have no way of monitoring, for example -- and let me use my own company as an example -- it would be a great example here. I have an insurance fleet policy that has 200 vehicles on it or more, and you do not collect an Auto Burglary and Theft fee off my policy. Is that correct?

MR. CALDWELL: No.

MR. WALKER: Why don't you?

MR. CALDWELL: Because, for one thing, it's got to fall up under their definition of what we use as a

motor vehicle; the other one is that it has -- if it is up under that definition, then a lot of times we don't get money from blanket insurance policies from the different companies.

MR. WALKER: But don't you rely upon the insurance industry to self-report?

MR. CALDWELL: Yes.

MR. WALKER: There's no gatekeeper watching what the insurance industry is reporting to us as far as the fees are concerned. Maybe we need to look at the mechanisms as to who's not paying and why they're not paying and have a little more ability to collect what's actually out there available to us. And I would venture to say that probably MR. Rush has a fleet policy also that we don't pay on, and it's not because I don't want to pay it; it's because it's never been assessed to me because I've looked at our policies and we don't pay that burglary. So apparently it's just an individual fee that is paid off of a policy that is collected from my kids' cars maybe that have their own individual policies.

MR. RODRIGUEZ: Mr. Walker, maybe I'm wrong now but I don't think it's assessed on the user; it's assessed on the insurance company.

MR. WALKER: It doesn't matter, what I'm telling you is --

MR. RODRIGUEZ: You may be paying it and not know it is what I'm saying.

MR. WALKER: Obviously we don't know where it is because I don't know if it's on my policy and Charles can't tell you whether we've collected it or not and we should have some ability to know whether or not we're collecting the money we're entitled to, I would think.

MR. CALDWELL: If I could kind of step back a little bit -- one of the things with the insurance industry is because of the definition and what is assessed; it is up to the insurance company to pass that fee on to the individual policyholder. Now, some insurance companies may choose not to do that and pay the total fee themselves and not pass it on to you. That's an individual decision those companies make. Sometimes you'll see it on your billing statement and if you see it, then they have passed it on to you. They can do that.

Also, we do have a rule within our administrative rules that we can go out and audit insurance companies on the assessment fee of what they're paying. The problem here is we don't have the expertise or the staffing to actually go out and audit 300 or 400 insurance companies that write insurance policies here in the State of Texas.

We kind of rely on the Comptroller's Office and

we also contact TDI over the years to see if they can 1 assist us in doing those things. Unfortunately, we're 2 told they don't have the manpower to do that as well, so 3 the expertise in going out and making sure that the 4 5 insurance companies are doing that is we don't have that 6 resource right now but we have the ability to go out and 7 make sure some of those things are done. MR. WALKER: Do we have any idea of how many 8 policies are written in the State of Texas, a factual 9 10 number? MR. CALDWELL: The number of policies that I 11 got as of 2008 was 10.5 million insurance policies. 12 MR. WALKER: Auto policies? 13 14 MR. CALDWELL: Auto policies. 15 MR. WALKER: And does the legislature require 16 the fee to be on a policy or does it require it to be per vehicle? 17 18 MR. CALDWELL: Per the requirement, it's per 19 policy per the number of vehicles on that policy. MR. RODRIGUEZ: Per insured year. 20 MR. WALKER: So if I had my wife, my son, my 21 daughter, ten cars on a policy, I should pay \$10 -- or the 22 23 insurance company should pay, theoretically, \$10 on that 24 policy. Is that correct?

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MR. CALDWELL: Right.

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MR. WALKER: Per year.

MR. CALDWELL: If it is a one-year policy, then we are getting that dollar. If you're renewing your policy every six months, then you'll see a 50 cents per those vehicles.

MR. RODRIGUEZ: So the assessment is on the insurance company. They're charged with reporting how many insurance years they have insured for in Texas, and that equates to the fee that that insurance company has to pay. How they administer it below, I don't know.

MR. WALKER: Well, Chief, do you think -- let me ask you this question -- obviously you've been involved with this committee before and I'm kind of new -- do you think that we're collecting all the money that's available to us from the existing policies? And Charles is shaking his head over here no. Well, before we starting adding -- and I was at the meeting this morning; maybe some of you weren't there but they want to add this on to homeowners' policies also, a fee for burglary, and before I start adding a fee to homeowners' policies to collect on auto burglary and theft, I want to make sure that we're collecting what we're entitled to currently that's out there.

MR. RODRIGUEZ: And Charles, I don't think that the base number, the total number of dollars that's being

collected right now, or at least being reported for collection right now -- I don't think that has grown a whole lot in 20 years. When we started this back in 1990-91 it was \$13- or \$14 million or somewhere there close to that. I don't think that number has varied that much from that number, so to me that suggests that the answer to that is no. The means for that -- we've got the ability to get the State Auditor involved and get those audit purposes and audit what the insurance companies are already required to report independently -- not to us but independently by themselves and business in Texas.

So there's a means of getting the audit done and making sure that we are getting that dollar for every insurance year that company is reporting for sales in Texas. Now, what I'm suggesting, though, is that regardless of that, I think that needs to be done and I think it needs to be done in preparation for these kinds of questions when we go to the legislature. But regardless of that, I'm saying to you and suggesting to you that we ought to support a fee increase to these companies because we're still operating on a 20-year-old fee. And if we accepted what it is today, \$13- or \$14 million in collectibles, and that went to \$28 million, that would hugely impact Texas.

Motor vehicle theft has gone from its highest

point ever in the early '90s to its lowest point it's been in the last 20-some-odd years. So there is value in the program, complete value.

MR. WALKER: Well, I'm not disputing that there's value with the program. The point I'm trying to make here today that I tried to make at their meeting -- and I've talked to Charles about this. And I'm not stupid but ten years ago when the program was created -- you're telling me that the same amount of money is being collected today as we did ten years ago.

MR. RODRIGUEZ: Twenty years ago.

MR. WALKER: Twenty years ago. Well, you can't tell me that the population of Texas hasn't exploded in the last 20 years and doubled and why wouldn't there be more insurance policies written?

MR. RODRIGUEZ: That's why I suggested that the answer to your question is probably no.

MR. WALKER: And I'm going to go back to saying that you've got the fox watching the henhouse when you're allowing the insurance industry to go and monitor who's paying and how much money is being paid to this without any kind of somebody checking out how much is actually owed to the State of Texas.

MR. RODRIGUEZ: And there are means. The basic question always has been, thus far, are there means of

auditing this? Yes, I would suggest there is.

MR. RUSH: Well, let me say something. I think that it's the chicken or egg; you don't have the money to run the agency now. Now how are you going to get the funds to go audit them? What do you do first?

MR. CALDWELL: I think there are funds to run the agency. I think what our problem is, during the economic downturn, a lot of the counties and cities are struggling to continue with the program, and I think the resources are available there for us but we can't operate on the same 20-year fee that we've been doing, and in order to assist these agencies and to continue with the program, we're trying to get a little bit more to get with them. We've got an added responsibility without the funding, and I think the homeowners' insurance was the means of getting the funding for that responsibility which the legislature added to our program. So that was just one of the options.

The other one was just ideas and proposals that we had talked about for a number of years, and not being able to put them in action, and now is the time that we're trying to put those things into action in order to see what we can get.

MR. RUSH: I understand what you're saying. My point was if you're striving just to stay alive with your

budget, with no more money than you have, having a tough time, not being able to do all you need to do, we've got to find some mechanism to be able to put somebody in the job to go audit these things, and I don't know whether it's chicken or egg. Do we go raise the price and then do it -- you know what I'm saying? I'm just asking a question.

MR. GILLMAN: Well, if I was up there lobbying trying for more funds, I think I'd want to clean my house up a little bit first, and a good way to do that is -- like you say, I think that it would be money well spent at least targeting some good-size insurance company or two or three good-size insurance companies and run a little audit and see if we're being funded fully.

MR. RUSH: That's what I'm talking about.

MR. GILLMAN: But I think that's pretty essential. Before you go looking for more money, you better make sure you can tell them you're getting what you're supposed to be getting.

MR. RUSH: If you audited 20 percent of them and they're paying two-thirds of what they're supposed to pay --

MR. GILLMAN: Or if audit facts and you see there's a problem, then you can start digging a little deeper.

1	MS. JOHNSON: Charles, in theory, if there's 21		
2	million vehicles and we absolutely have the exact number		
3	from Ms. Davio's department, although I understand the		
4	insurance year part of this, theoretically, we should be		
5	getting \$21 million; every vehicle should be insured. So		
6	if the \$21 million isn't coming in, we're being cheated,		
7	theoretically.		
8	MR. CALDWELL: Theoretically. But again, we're		
9	talking about insurance policies; not all policies are a		
10	year policy and not all of them are six-month policies.		
11	MS. JOHNSON: Right, but they still should be		
12	prorating those fees.		
13	MR. CALDWELL: They are. That's the reason why		
14	we're not getting the full dollar as stated. If there is		
15	a 30-day policy, we only get 12 cents based on the		
16	calculation; if there is a 90-day policy, we're only		
17	getting 36 cents.		
18	MS. JOHNSON: But they're still having to renew		
19	that policy and eventually at the end of the year you'd		
20	still get that dollar, theoretically.		
21	MR. CALDWELL: Not necessarily, because		
22	sometimes they're renewing them just to get the		
23	registration inspection and then they go a whole year		
24	without having to get that again.		

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MS. JOHNSON: So people are basically -- we're

not enforcing even insurance requirements so it's a bigger problem. Because I agree, there's a lot of people getting a 30-day policy to register their car and then they don't have insurance and nobody is checking unless they get stopped. That's an enforcement problem, though.

MR. VANDERGRIFF: Mr. Rodriguez, I think he has a point.

MR. RODRIGUEZ: Just two things to kind of keep in the back of your mind when you start thinking about 21 million vehicles should equate to \$21 million. Remember this figure; there's an uninsured rate number. It's a high one, somewhere in the area of 35 or 40 percent, so if you now take that 35 or 40 percent off the 21 million, that's really the number you're working with if you're doing it, if you accept all of it.

The other thing, it's not an insurance company failing to pay the \$1; it's the individual vehicle owners, that 40 percent or so that are not buying insurance, and so the question is if they're operating that vehicle, then they're committing a violation of law. That's where the problem is.

MR. VANDERGRIFF: Any other questions over here? Comments?

Charles, I know you've got more on your plate to bring up to us, but this has been a good discussion on

this particular issue and I would hope that between the division and the association that we have a chance to work with you on this one and be out in front together on it, so look forward to that.

MR. CALDWELL: Appreciate it.

MR. VANDERGRIFF: And our legislative chair, we'll talk about that a little bit, and Cheryl and Chief Rodriguez are on that same committee, so I see an assignment coming their way pretty quickly here.

MR. CALDWELL: Did you want to address the item?

MR. VANDERGRIFF: Yes, go ahead.

MR. CALDWELL: I think one of the items in your packet is the memorandum of understanding between the Automobile Burglary and Theft Prevention Authority board of directors and the Department of Motor Vehicles. This morning we met and our board has agreed and voted and has signed the memorandum of understanding between the two agencies.

This is the pretty much the same MOU that we had with the Department of Transportation; the language has changed to add us into the Department of Motor Vehicles and the agreement with our board of directors. And we're just asking if you guys would approve to sign the MOU.

MS. JOHNSON: Mr. Chairman, I move the approval 1 of the MOU. 2 MR. VANDERGRIFF: This is a briefing item. 3 MS. JOHNSON: Okay, so we're not taking action 4 5 today. 6 MR. VANDERGRIFF: Yes, so we have to make 7 sure -- unfortunately, I got this just as we were getting ready for the meeting and was unaware of it and felt like 8 it was appropriate for the board to review it and for 9 10 counsel to review it before we took action on it. I don't see any issue or problem with it. I would ask -- you said 11 12 basically the same -- I think the only change is just the substitution of TxDOT for DMV. There wasn't any other 13 14 change that I noted in it. MR. CALDWELL: Right. No other change. 15 16 MR. VANDERGRIFF: I don't see any major issue 17 with this, but like I said, again, I felt like the board needed to have it briefed to them and counsel look at it 18 19 before we took action on it, and I think we'll definitely have that done so that we take action on that at our 20 February meeting, but don't see any issue from my personal 21 perspective. 22 23 MR. RODRIGUEZ: Mr. Chairman, there's some language here -- I mean, I know what you want to do and I 24

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think we ought to go with the general counsel, but there's

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some language in here that I think is problematic. For example, you say administrative expenditure and just as an example, eventually the staff that will be operation-wise, for example, the financial aspects of the ABTPA, that will be DMV staff.

MR. VANDERGRIFF: Yes.

MR. RODRIGUEZ: So it would not be -- and this language would not fit that, and it goes throughout the document, and I think we ought to fix it if we're going to go this way, maybe through counsel or assign a board member to go ahead and make those corrections. There are some things in there that tend to allow the ABTPA to do some things that it really can't do that are DMV personnel items.

MR. CALDWELL: Chief Rodriguez, if I could just kind of explain. This is an agreement between the board of directors and the Department of Motor Vehicles. What it is is spelling out what their role is, kind of clarifying what their role is and the Department of Motor Vehicles in conjunction with each other. The staff is Department of Motor Vehicles but the agreement is actually with the board of directors and you guys.

MR. VANDERGRIFF: I think it would probably be appropriate, particularly since the question was asked, that maybe if he would consent to do this that Chief

Rodriguez work with our general counsel and work through 1 the language on it and make sure that both sides are okay 2 and appropriate on it and we can move this forward as an 3 action item in February. 4 5 Chief Rodriguez, are you willing to do that? 6 MR. RODRIGUEZ: Sure. 7 MR. VANDERGRIFF: Okay, that would be great. 8 Thank you very much. Any other questions of Charles, or Charles, do 9 10 you have anything further to add? MR. CALDWELL: No. Well, on a personal note, 11 on behalf of staff and the board of directors of ABTPA, 12 we're glad you guys came; we enjoyed having you there and 13 14 you gave us some interesting dialogue, and we do 15 appreciate that. So thank you for coming, and our door is 16 open anytime. MR. VANDERGRIFF: All right. Thank you very 17 18 much. Appreciate it, Charles. We went a little bit out of order and I 19 appreciate the indulgence of the audience on that, but 20 spur of the moment, keep the discussion flowing on the 21 item that we're talking about. Thank you again, 22 23 Lieutenant Hansen, and your group for being here today at 24 the meeting.

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We're back now on the agenda and item 2.A and

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these are just the standing items of administrative updates. As far as stakeholder meetings and information, we did have a few different meetings that occurred during a couple of our listening tour stops, and I'll reserve those to have discussion when Rebecca Davio gets up shortly to talk about those. But really other than the holiday season, I don't think we had any major meetings that I'm aware of that any members of our board or the industry had out there that we were privy to, but we're always excited and pleased to come to anything that any of you or your associations have for us to attend.

We do have a legislative hearing coming up that's on February 1 that is a joint session of the House and Senate Transportation. Chairman Joe Pickett from the House and Chairman John Carona from the Senate are holding a joint meeting. We have been asked to be there -- both myself and Rebecca Davio from VTR have been asked to attend and participate on a panel, and the major purpose of that hearing, as I understand it in the notice that we were given, is not only for us but for other industries to discuss ways to address the funding crisis that befits transportation, and obviously, many of the things we do, specifically registration fees, will be discussed then. So that's really all we know at the moment but we do expect that -- well, we know that hearing will take place

and that we have been asked to attend, and I think they'd find us if we didn't show up, so we will definitely be there.

The Governor's Office, according to our statute there is a quarterly report that is due and we'll be filing that by the end of the month on the activities of the agency. We'll have a preview copy of that out to the board for their review and comment prior to that going out, but certainly will make that available on our website so that you have a copy of that once that is filed.

And then the last item on the administrative updates that I have, and then I'll entertain any questions or comments the other board members have, is that we have completed another round of executive director interviews and I am very optimistic that we'll have an announcement in that regard here in the not too distant future -- our hope is in a matter of days, but we're going to discuss that item a little bit more in executive session, so we may have something else to report to you after that.

And with that, I would ask if any board members have any comments or questions on any of the items I've just discussed.

(No response.)

MR. VANDERGRIFF: Seeing none, I'll move into the item 2.A.2 which is a briefing on the central

administration, and specifically the operating budget and the budget process, with Dawn Heikkila.

MS. HEIKKILA: Mr. Chairman, members, my name is Dawn Heikkila, for the record. I am the division manager for the Motor Vehicle Division, and I wanted to give you just a general update on what's been happening with regard to central administration functions.

The DMV is making payments, TxDOT is processing payments on behalf of the DMV and DMV staff is reviewing the payments to ensure accountability and accuracy. We have W-2s being prepared for our employees. There will be two sets this year, one for the DMV and one from TxDOT. And in preparation for the Finance and Audit Committee that the chairman is going to be standing up, we're preparing training materials, and part of that will be including a uniform process for preparing reconciliations at the division level.

I have one issue that I wanted to bring to your attention. On January 5, the DMV lost one of its motor vehicles to fire. We had a van catch fire on Cesar Chavez Avenue, the van is a total loss. There are photos of the van in your packet -- I'm sorry -- Gail is handing those photos out right now. With the quick thinking of our interim fleet manager, L.C. Smith, he was able to locate a comparable vehicle in TxDOT's surplus vehicle inventory

and has transferred that vehicle, the surplus vehicle, to the DMV at no charge. As we work through the fiscal year and we identify whether resources are available or not, the DMV staff will bring to the board options for replacing this asset, if that's what the board chooses to do.

Are there any questions?

MR. CAMPBELL: I'm sorry. I have just some general questions.

MS. HEIKKILA: Sure.

MR. CAMPBELL: On the budget we presented the budget to the LBB and have you heard anything back on it. Has it been approved?

MS. HEIKKILA: Yes, sir. The DMV submitted its operating budget on December 1 and we actually have heard back from the LBB, and the DMV is going to have to make some corrections to its operating budget. If you remember, during the last board meeting the DMV operating budget was prepared by TxDOT staff and there were some assumptions made at the time that the operating budget was created on behalf of the DMV as far as what information needed to be included in the report and how to present the funding that was transferred from TxDOT to the DMV.

The LBB has since contacted both TxDOT Finance as well as DMV staff to let us know that they have some

questions and that they'll be expecting us to be making some changes. Specifically there was some historical data included for the central administration section that needs to be backed out and then there are some transfer issues with the funding that need to be cleaned up. They also had some additional funding questions on the method of finance for the Meyers settlement, where the money came from prior bienniums.

So they are still conducting the review and the email we received from the LBB analyst indicated that we aren't to take any action until we hear from them that they've completed their review which will be a couple of weeks from now, and at that time we'll have all of their questions and all of their comments and we'll be working with TxDOT Finance staff to make those corrections and then a revised operating budget will be issued according to the recommendations for cleanup and for corrections from the LBB.

Once the revised operating budget has been resubmitted to the LBB and accepted, then we'll be posting a revised budget on our website and filing a revised copy with the State Commission on Archives and Library.

MR. CAMPBELL: When you say corrections or back numbers out, what do you mean by that?

MS. HEIKKILA: In the method of finance for the

operating budget for the DMV, there were appropriations shown as regular appropriations received for the DMV and the DMV did not receive legislative appropriations for the 2010-2011 biennium. TxDOT received the appropriations for the program areas and those funds need to be shown as transfers in from another entity. And so we need to correct that.

MR. CAMPBELL: And then a question on the Meyers settlement; that was done back in November or December, somewhere right in there?

MS. HEIKKILA: Right. TxDOT paid the Meyers settlement or a portion of the Meyers settlement \$20.2 million that went into a reimbursement fund, and our interim CFO, Bryan Ragland, instructed his staff at that time to transfer or UB the '08-09 funds that were remaining for the program areas over and a big portion of that UB money was to cover the Meyers settlement because when the transfer was done for the 2010-2011 budget or the 2010 money for the DMV, TxDOT held back \$24 million of the 2010 money to pay that Meyers settlement. So this was to help us recoup those funds.

 $$\operatorname{MR}.$ CAMPBELL: And the settlement was in November or December.

MS. HEIKKILA: The settlement payment was made on November 20.

MR. CAMPBELL: And was the money disbursed at 1 that time? 2 MS. HEIKKILA: No, sir. The money was 3 transferred on the 12th of January. 4 5 MR. CAMPBELL: Why such a lapse in time? 6 MS. HEIKKILA: My understanding is that the 7 Comptroller's Office swept the state agency accounts in December and they swept the money from TxDOT prior to 8 TxDOT making the transfer, and I don't have an explanation 9 10 as to why that didn't happen prior to the CPA sweeping that account. But I do know that TxDOT had to contact the 11 CPA at the Comptroller's Office, recover the lapsed 12 funding so that they could make the UP transfer. 13 14 MR. CAMPBELL: And in House Bill 3097, the UB 15 transfers, when is that supposed to take place or how does that work? 16 MS. HEIKKILA: Well, House Bill 3097 required 17 18 that the transfer take place as soon as possible after 19 November 1. MR. CAMPBELL: And we got it January 12? 20 MS. HEIKKILA: January 12. 21 MR. CAMPBELL: To me that seems like a long 22 23 period of time; if it's supposed to be happening in 24 November, why is it done in January? Who is responsible for that? 25

MS. HEIKKILA: That would be the TxDOT Finance 1 2 folks. MR. CAMPBELL: Is there somebody here from 3 them? 4 5 MS. HEIKKILA: Our interim CFO, Bryan Ragland, 6 is attending the TSBAA Conference, the Texas State Business Administrators Association Conference in 7 Kerrville and could not be at the meeting today. 8 MR. CAMPBELL: Where are we on the rest of the 9 10 UB funding? MS. HEIKKILA: Well, I have confirmed that the 11 UB transfer for the '08-09 funding has been -- it has hit 12 the DMV accounts. I'm still looking at whether or not the 13 14 transfers hit appropriately and I should be able to report 15 back on that during the next board meeting, and we're 16 certainly working with the Finance Committee that we're 17 going to be having. The MOU, in addition to House Bill 3097 and the 18 19 transfer provisions in the General Appropriations Act which cover the 2010-2011 biennium, the memorandum of 20 understanding has transfer provisions in it as well. When 21 TxDOT transferred the 2010 money over to the DMV, they 22 23 retained 15 percent of the funding that was transferred. They transferred 85 percent to the DMV, kept 15 percent 24

plus the Meyers settlement. The MOU has a provision that

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says on or before January 1 of 2010, 50 percent of the 1 amount retained is to be transferred back to the DMV. 2 MR. CAMPBELL: So 50 percent of the 15 percent 3 is supposed to be transferred by December 31 or by January 4 5 1. 6 MS. HEIKKILA: Right. 7 MR. CAMPBELL: Has that taken place? MS. HEIKKILA: The transfer of the 50 percent 8 of the retainage, that transfer voucher was processed last 9 10 night on the 13th. MR. CAMPBELL: So we have a MOU that says it's 11 12 supposed to be done this way but it's not being done that 13 way. 14 MS. HEIKKILA: It wasn't done on or before the 15 first. That's correct. 16 MR. CAMPBELL: What do we need to do to correct 17 that, I guess is my question. MS. HEIKKILA: More staff would be great. 18 I'm 19 not really sure what we can do on the TxDOT side; on the DMV side we just need more resources to be more diligent 20 in tracking this stuff and keeping up with it. 21 22 MR. CAMPBELL: But the transfer itself, that 23 doesn't take more staff; you've got an MOU that says this is what's supposed to be done. It doesn't seem like that 24 would be that complicated. 25

MS. HEIKKILA: Right. There just needs to be better monitoring.

MR. CAMPBELL: Is there some way we can get

something maybe from TxDOT kind of giving an explanation of why they're holding our money? I want to make sure our employees are getting paid and we're setting this thing up right.

MS. HEIKKILA: I want to make sure employees are getting paid as well.

MR. CAMPBELL: Is there something we need to do or something that they can respond to doing this at a delayed time? Is that appropriate, Mr. Chairman?

MS. HEIKKILA: Actually, the mechanism to make sure that happens is there is a Budget Committee. There are three employees on the TxDOT side and there are three employees on the DMV side that have just recently been -- this Budget Committee just recently gelled; we haven't met yet. The first meeting is coming up on the 22nd of January, I believe, and that will be a mechanism for the two agencies to put their heads together to make sure that we are doing what we're supposed to be doing according to the MOU and that the actions are taking place timely, and that's definitely a committee that the board's Finance and Audit Committee would want to track.

MR. CAMPBELL: So our assumption is, you're

going to meet on the 22nd of January; by our next meeting we should have answers to this you think?

MS. HEIKKILA: Certainly. We can certainly pose those questions.

MR. CAMPBELL: Thank you.

MR. VANDERGRIFF: I think it maybe could be appropriate, Mr. Campbell, particularly since you have the questions that on behalf of the board we draft something up, just a working paper that Dawn can take to that meeting and our representatives so at least they're aware we're watching and asking for some answers.

MS. HEIKKILA: Okay. There is just one other thing that I wanted to mention and that is that one of the provisions in the memorandum of understanding deals with the salaries for central administration staff. Effective December 1, each month that those positions are not staffed, we have to return 10 percent of our allocation back to TxDOT, so in December we need to turn back \$33,885 and a like amount for January on January 1. So that's just a reminder that we will have to transfer back about \$68,000 to TxDOT.

MR. VANDERGRIFF: Okay, thank you very much for that.

On the Finance Committee, particularly the training materials, I think we have just discussed, kind

of tentatively, that obviously -- again not necessarily a secret -- we're going to talk about it here in a minute -- Mr. Campbell is chairing our Finance Committee and so he is certainly going to get kind of up to speed with you first and work with you on the training materials and then his committee and then the full board.

MS. HEIKKILA: Right.

MR. VANDERGRIFF: And do you believe we can get this training in and done by our next meeting in February so, or do we need longer in order to get it done to move to be of assistance?

MS. HEIKKILA: I feel fairly confident that we can get the members of the Finance and Audit Committee trained and up to speed, at least give them enough background and contacts to where they can really dig their heels in it and understand what's happening on the financial front as far as how the money is flowing and where it's coming from and where it's going out to. To train the entire board might take a little bit longer, maybe even mid-February. If we could get schedules coordinated, we might could get them done by the next board meeting.

MR. VANDERGRIFF: Well, certainly through the end of February we could get that done.

MS. HEIKKILA: Yes, absolutely.

1 MR. VANDERGRIFF: That's great. MS. HEIKKILA: I've already got more than 50 2 percent of the training materials compiled. Mr. Campbell 3 has asked that I summarize some of the materials which I'm 4 5 working on right now, and then I'll create binders that 6 can be replicated. 7 MR. VANDERGRIFF: And Jim, you feel comfortable that the process is moving along? Okay, that's great. 8 9 Any other members have any questions of Dawn? (No response.) 10 11 MR. VANDERGRIFF: Dawn, do you have anything further to add? 12 MS. HEIKKILA: I do not. Thank you very much. 13 14 MR. VANDERGRIFF: Okay, super. Thank you very 15 much. 16 Our next item on the agenda, as Dawn left the 17 personnel issue reminding us that we lose 10 percent every 18 month, is personnel postings -- and George Ebert, who is 19 our interim director of Human Resources. George also serves in that full capacity for TxDOT. 20 MR. EBERT: Good morning, Mr. Vandergriff and 21 board members. As advertised, I'm George Ebert, your 22 23 interim director of Human Resources. Over the past few months I've been working with 24

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Mr. Vandergriff to identify some of the key positions that

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we would want to post immediately with the appointment of an executive director imminent how -- we're prepared to post immediately the following positions: a chief operating officer, a general counsel, a chief financial officer, a chief litigation counsel, a state government affairs director, a local government and regulated industries director, a development and planning coordinator, an executive assistant for the board, and an executive assistant for the executive director.

When I return to the office today we'll finalize the postings, send them to Texas Workforce Commission, and they'll begin appearing tomorrow.

MR. VANDERGRIFF: Does anybody have any questions of George at this point?

(No response.)

MR. VANDERGRIFF: Super. Thank you very much.

MR. EBERT: Okay, sir.

MR. CAMPBELL: Mr. Chairman, one question, on these postings. These people will be hired -- assuming we hire an executive director, they will funnel through him, not through us . Is that correct?

MR. VANDERGRIFF: Some of the positions will report to us as well, like a chief financial officer and a general counsel and obviously a board assistant or the research people that work with us. So through our

1	Administrative Committee they'll have involvement in those
2	hires. But the executive director for the most part
3	all these people would report to them, and so they should
4	be a part of that process and lead that process.
5	MR. CAMPBELL: Including the legislative
6	person?
7	MR. VANDERGRIFF: The legislative person would
8	work with the executive director but also the purview of
9	the board as well, so these are positions that we'll have
10	a role in.
11	MR. GILLMAN: We'll have a role in hiring them
12	too?
13	MR. VANDERGRIFF: Yes. We'll have a direct
14	process through our Administrative Committee.
15	MR. WALKER: This 10 percent that Dawn said
16	we've lost by not filling positions, will that affect our
17	funding for these positions?
18	MR. VANDERGRIFF: No. Our cycle is through the
19	year period so we have to negotiate a new MOU with TxDOT
20	when the new year hits, fiscal year on September 1. We'll
21	be negotiating that memorandum of understanding with
22	TxDOT. I would say probably those discussions will start
23	in the next 60 days or so.
24	MR. WALKER: But she said by not funding some
25	positions that we have lost that money. So my question is

are the positions we are filling -- have we lost the 1 funding ability to fund those positions? 2 MR. VANDERGRIFF: It's prorated. Well, I'll 3 let George answer, but it's prorated. 4 5 MR. EBERT: It is prorated, yes. MR. VANDERGRIFF: And I think Mr. Rush is 6 7 commenting on that. We actually only started with ten months of funding to begin with because we started two 8 months into the fiscal year. We do have the flexibility 9 10 with the funds that we have to mix and match or move within the positions in order to hire people; it's not 11 specifically tied to an individual position. 12 Any further questions? 13 14 (No response.) 15 MR. VANDERGRIFF: Okay, super. Thank you very 16 much. 17 The next item on our agenda 2.A.4 is the listening tour and an update from Rebecca Davio. 18 19 MS. DAVIO: Good morning. For the record, my name is Rebecca Davio, I'm the director of the Vehicle 20 Tittles and Registration Division. 21 22 On Tuesday, January 12 we had our second 23 listening tour for the Department of Motor Vehicles. conjunction with that event that was held in the evening, 24 25 we took the opportunity to visit with the regional tax

assessor-collectors there to get their input, seek their input on answering our questions: what we do right, how we can do better and how we can really meet all their needs. And then we had a meeting with the San Antonio Express News editorial board to help spread the word about what the department of Motor Vehicles is all about, what we're trying to do, what our functions are.

And then the listening tour itself was kind of the classic good news/bad news situation. The bad news was that there really wasn't a lot of attendance there.

We had Chairman Vandergriff and Board Member Rush in attendance there and we just had a small turnout. But I take from that that the good news really is that we don't have a lot of customers out there that are passionately angry and frustrated with our services and they seem to be pleased with the quality of services, the same for the industry.

And so I think what that may cause us to do is to look at the listening tours and really evaluate how we want to get that feedback from the motoring public, from the industries that we serve and from our partners, and so that will be something that we will be having discussions with the chair and the board to try and figure out. We do have an opportunity through the DMV website for interested parties to be able to express their opinions and answer

questions, and we've actually gotten more response there than we have from the listening tours that we have held.

Next week we have a listening tour scheduled in Fort Worth and in Dallas, and beyond that, I think we need to look and really assess how we're going to approach getting that information.

MR. VANDERGRIFF: I have some comments I'd like to add, if you'll indulge me, having been to the one we had here in Austin December and then this one. The positives for me is that the industries that we work with are more than willing and want to -- in fact, whether it's tax assessor-collectors or car dealers or motor carriers or whoever, they want to meet with us and I think that those small group settings between staff, board members and the industries are great and should be done.

I've been pleasantly surprised -- and I also want to compliment Kim Suglia who is the public information officer with VTR -- she's been able to attract attention from the newspapers for editorial board sessions. They want to understand who we are and what we do, so there's an interest there that's very good. And then there's also some side benefits.

In San Antonio, went to the VTR offices there and met the 15 employees that are in the regional office, and that was a wow for me; they were very much a team,

very customer-centric and everything was organized and disciplined and you could tell they took great pride in their space, in spite of the fact that it was old, a little bit dilapidated and leaking through at the windows. There was a lot of positive vibe there, but the night sessions, not so much.

Some of you have attended those night sessions and we very much appreciate the regulated industries coming out to the night sessions, but we have other mechanisms, obviously, in which to get together with you, so I think we have to rethink that one a little bit, and I've encouraged the staff of the Department of Motor Vehicles to think that, and so perhaps the listening tour that we have, we need to pull back on that and rethink how we go about it.

But again, the meetings with the newspapers or with the specifically targeted groups -- and the other group I didn't mention, the legislators are very keen to meet with us as well, and I think those are great sessions to do some two-on-one, three-on-one sessions with board members and staff with the legislators to educate them and to be educated from what their perspectives are very, very good.

But with that, I'd open it up for any questions you might have.

MR. WALKER: Well, I don't have a question; I have a comment, though, is that John Sharp once told me when he was politicking a long time ago for the Railroad Commission, he said, You know, it's kind of like the old farmer that goes out to feed the hay. When you go out there to feed the cows, you call them up and they don't come; the next time you don't go or the next time you don't unload all that load of hay; you kind of take it back to the barn.

Well, obviously, Victor said we've got one public person that showed up in two sessions that we've been to, and I know we're mandated by the legislature to do this tour that we have to do. Why don't we go to some people that are interested in hearing our story and making comments to us? For example, the Trucking Association obviously has a tremendous interest in what DMV does. We have a board meeting scheduled in Austin, Texas, in February. Why wouldn't we make our board meeting — you make an address to them and we can make that open to a public session at our board meeting. I'm sure that we would be more than amenable to doing that.

You've got the Texas Automobile Dealers

Association. I'm not active there; I don't know how often they meet, but they probably have a board just like we do that meets quarterly or something or other, and make our

public session address there because they have a tremendous interest, I would think, in what we're doing.

MR. VANDERGRIFF: Yes, I think that that's the approach and maybe I didn't articulate it very well, but I'm in exact agreement with you that the industries that we work with, they're interested in meeting with us and talking to us, and we've had some great sessions, as you know, with truckers and with the like, and so I think we need to aggressively do that, and that would be a better way.

We still have to find the right mechanism to hit, as you put it, the motoring public, and the night listening sessions don't seem to do it, so we've got to figure out that way. But as Ms. Davio said, we may be doing some good things. They're not seeming to complain too much, so that part is good.

MS. DAVIO: I would like to thank TMTA, TADA, TIADA, the tax assessor-collectors. All really took an active role in helping us communicate this to their constituencies and customers, and so that was very much appreciated.

MR. VANDERGRIFF: And I wish I had a light board or something but I don't, but I think several of you want to say something. Mr. Campbell, go ahead, please.

MR. CAMPBELL: You indicated there's a tour

next week at some point?

MS. DAVIO: Yes, sir.

MR. CAMPBELL: How are we supposed to be notified on those? Because I think I was scheduled for like the 25th and it sounds like we're not going to have one on the 25th.

MS. DAVIO: We did have to do some adjustments of the dates, and we're finalizing the schedule. This is your official notification -- no, I'm just kidding. We will be getting with you. We got some guidance from the Chair on who might be the most likely attendees from the board, and so we will be coming out to you with information on that.

MR. CAMPBELL: Okay. Additionally, we were able to -- I spoke before the Fort Worth local association of the Independent Dealers Association, just kind of outlining who we are, what we're doing, and I think maybe if we each get to our own associations and maybe kind of give some talks and take questions and answers may help too.

MS. DAVIO: Absolutely.

MS. MARZETT: And just to -- boy, I really sound deep, I have a deep voice anyway. Really I think we need to find another way to reach different channels of communication for the public because getting in a car,

driving out -- it isn't like sexy fun stuff to talk about, but if you think about whether it's via email or whether it's some virtual kind of meeting that you can have, but I think some creativity with trying to get the public engaged and just getting feedback from them. The formal approach maybe is just not as exciting for them to make the effort, so just some thought behind that.

MS. DAVIO: I agree. As I mentioned, we've gotten more comments through the website than we have from the actual listening session events.

MR. VANDERGRIFF: Ms. Johnson.

MS. JOHNSON: Yes. Thank you for what's been done so far and I appreciate the board members who have attended the listening tours. And I might suggest that, number one, some type of notice be put in the renewal registrations that are going out because that's the best way to reach the public and you're already communicating with them. Let them know we're new. We want to hear from them, and maybe give that contact information.

But also, your elected officials, your legislators as well as your tax assessor-collectors, we hear daily what people have to say, and I've reached out to the tax collectors and asked them to give me input. We receive input daily. If you really want to meet with the public, I would suggest you go to a tax office the last

day of the month.

MS. DAVIO: That's a great point.

MR. VANDERGRIFF: Any other questions or comments on this item for Ms. Davio?

(No response.)

MR. VANDERGRIFF: Thank you very much.

Our next item is the board committee structure, and we do have copies. I think Gail has those to pass out. Certainly board members have seen this or discussed this, but I also have extra copies for the public that's here today if they'd like one.

These are the 2010 committee assignments that we have. We have five committees and we previously published those and what they were. The Administrative Committee which really is charged with the personnel issues, such things as our soon-to-be HR manual and all the things that we have to do in standing up the administrative side of the agency and the oversight of that, as well as really the culture of what we're all about and what we want to do at the DMV. And Jane Marzett has agreed to chair that committee, and we have members Butler, Johnson and Rush that are on the committee itself.

The Finance and Audit Committee, you've had a preview of that, obviously finance and audit is exactly what it is, and we've got a big task there, strategic plan

upcoming as well. Jim Campbell has agreed to chair that and members Marzett, Walker and Butler are on the committee.

The Legislative and Public Affairs clearly deals with -- this listening tour would be under its purview by the way, as well as certainly in the direct contact with the legislature, and Cheryl Johnson will chair that committee with members Gillman, Marzett and Rodriguez on it.

And the Projects and Operations Committee -that's the big ticket items that we do, the special things
that we do, and most notably at the moment Vision 21 is
before that committee, and Johnny Walker will chair that
with members Campbell, Johnson and Gillman on it.

And the Rules and Enforcement -- the second half of our meeting we'll obviously deal a lot with that, and Victor Rodriguez will chair that committee with members Gillman, Rush and Walker serving on that committee.

These committees -- if you need any more information, we'll certainly be happy to give it back out to you. If you'd let Gail Anderson know, if you'd leave an email, whatever, we'll send you another sheet on what the committees do, but clearly the intent is to more items through our committee structure first. It allows us to

rifle-shoot and I think be more effective in our policy role, and then bring those items back to the board as necessary for action, but we will be taking action at these committees and making recommendations moving it forward to the board.

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Part of the board positions are the positions that are being stood up as the support structure necessary to accommodate the board and to accommodate these committees with the research capabilities and the functioning capabilities to move forward. anticipate that we probably, in order to be concise in this -- is that we would try to put these committee hearings on a day probably a couple of weeks out before a board meeting so that we still could post items and to have all the committees meet on one day, wouldn't necessarily a particular committee if they didn't have anything to meet about, but at least we'll look to a standing day that we can have. And then we expect certainly a lot of the work to be done by the individual members as they have their schedules to do it. We are a volunteer group and we have to be mindful of that in moving forward.

The last item is the advisory committees. By statute we are to stand up some advisory committees, and it's yet uncertain whether it will be the board chair, a

chair of the committee from the board, how we have to phrase that, but on the Motor Vehicle group we have multiple members in that, and members Gillman and Rush have agreed to chair or coordinate that, and obviously, Motor Carriers, Member Walker, and Vehicle Titles and Registration. Member Johnson has agreed to chair or liaison that.

I would ask the board members and also the affected industries that are out there, the regulated industries to not only be thinking about but submit names. I would again ask those to come to Gail Anderson who is our interim administrative chief cook-and-bottle washer for everything that we do, to get names of people that would maybe be interested in serving, and then the people who head those committees can sort through that and we can discuss how we get those committees stood up with people outside the industry. And be mindful too that we have to have public members on those committees, as well, going forward so we'll have to be working on that.

But with that, I'd ask if there's any questions from board members about this. We'll certainly be discussing this and getting the structure put together.

Yes, please.

MR. RODRIGUEZ: Did I hear you say we needed to have public members on all the committees?

MR. VANDERGRIFF: No. Just on the advisory 1 committees. 2 3 MR. RODRIGUEZ: Advisory committees. MR. VANDERGRIFF: Yes. 4 5 MR. RODRIGUEZ: I have some questions for 6 counsel, and I'm speaking to for consumption purposes. 7 think if we are official committees and we have to post agendas of our meetings --8 MR. VANDERGRIFF: We do. 9 10 MR. RODRIGUEZ: -- and then we have quorum requirements, I just wanted to kind of plant that seed 11 because it would be harder to get -- the bigger the 12 committee, the bigger the quorum necessity and the harder 13 14 it is to get business done is what I'm saying. If it were 15 smaller, then one or two of us could form a quorum. MR. VANDERGRIFF: Well -- and I think that we 16 17 certainly can discuss, and perhaps even in executive session we can discuss the sizing of the committees, but 18 19 that's a good question to ask. MR. GILLMAN: When you say on these advisory 20 21 committees public members, are you talking about like obviously away from the board but they can be in the 22 23 industry? 24 MR. VANDERGRIFF: No. We have to have some 25 that should be just a pure public member. For example,

Member Butler has not been in any part of our regulated industry business, that I'm aware of anyway, so we'd have to have some people like that, so we'll have to be looking for some folks. And I'm not sure of the best mechanism to do it. I know that certainly when you are looking to serve on a state board or a local board of any sort, you have a website that you can apply to and then a screening mechanism in which to put qualified candidates on boards, and so I think probably we need to discuss that as to how we do that, but we need to be looking to find some qualified public members to serve.

MR. GILLMAN: Thank you.

MR. VANDERGRIFF: Any additional questions?
(No response.)

MR. VANDERGRIFF: All right. With that, we can move into the Motor Vehicle Operations, and I think Brett Bray is here to give us a briefing on this. This has been postponed a couple of times and this is part of the training that we need, per statute, to give us a good overview of Motor Vehicle Operations.

MR. BRAY: Mr. Chairman, members, I'm Brett
Bray, director of the Motor Vehicle Division. A couple of
quick things -- 36 hours ago I had a temperature of 102
and anybody that shook my hands this morning, I'm, as far
as I know, bug-free and probably antiseptic, but Molly

Cost, my director of Licensing who is sitting right behind me, is fully acclimated to giving this presentation. If I fade, I'm just going to fall over to the left and she's going to slide in and keep right on going, so you all don't need to worry.

(General laughter.)

MR. BRAY: Secondly, last night, to my chagrin, I saw Alan Mulally, the CEO of Ford Motor Company, giving a presentation, no notes, no script and he had to make a joke about leaving his PowerPoint at home and everybody laughed, and so I'm a little anxious this morning. I have a notebook full of notes and I do have a PowerPoint after watching Mr. Caldwell and Ms. Davio, so bear with me.

That said, I'd like to thank you for the opportunity to present the Motor Vehicle Division, and there's at least a couple of you on this board that have experience with the agency that probably predates my own, but all that aside, I hope to provide you insight today that's new to all of you.

If I say something that is in odd language, please stop me and let's see if I can fix it. I was in a parts department of a car dealership the other day and this fellow walked in and said he needed a new 710, and the people behind the counter scratched their heads and they tried to look it up and tried to look it up and

couldn't find it, and they said, Have you got the old one so we can go by it? And he said, No, I lost it, that's why I need a new 710. And they tried and tried and couldn't figure it out, and they finally took him back to the service department and found a car like his and pulled the hood up and said, Do you see a 710 on that one? And he goes, Yeah, it's right there. So if I say something in 710-speak, give me a chance and I'll try to say it better.

(General laughter.)

MR. BRAY: In your board training notebooks that you received early on, the big fat notebooks, there's a document under the MVD tab and it's called an executive briefing. I've drawn from it but I don't plan on reading any of it to you.

The division's genesis was actually the brainchild of the Texas Automobile Dealers Association. Forty years ago they took to the legislature the idea to regulate the vehicle distribution industry in Texas as it had already been being done in much of the country. Back then the regulation took two forms: it was a marriage of a level playing field for Texas dealers and their franchise or manufacturers, and coupled that with the consumer protection responsibilities of the agency.

Over the years there have been many different related tasks given to us, and this can give you a flavor

for all of the types of vehicles that we work with, they extend from the smallest to the largest. The Motor Vehicle Division is a regulatory entity, and I'm a regulator and I wear that badge proudly. Member Walker caused me to consider that there are really different types of regulation. One type, I guess, is rate and tariff, and then there's the type I would suggest that we're involved in which is quite the opposite. Our efforts are very much in support of free markets and competition. The state goal is to have healthy, dependable competitors who conduct their business in an open and honest manner.

There are a lot of definitions of regulator and you can find them in law dictionaries and regular dictionaries, and you can find them in movies. There's a definition in the movie about Billy the Kid where they self-described themself as regulators; they regulate stealing the cattle. I think Chairman Vandergriff captured the essence of our division best when he said this -- he said that we recognize the importance of motor vehicles in the lives and livelihoods of Texans, and we take that to heart.

When the original Motor Vehicle Commission was created, it was mostly an industry member body regulating the new motor vehicle industry system in Texas and was a

very small state agency. In time, the Lemon Law was enacted, vehicle converters and lessors were added. Then came used car dealers, travel trailers and mobility-impaired vehicles. The little agency has been an all-public-member body; industry members placed back on the board. It's been transferred under the umbrella of the Department of Transportation, it's had the board abolished, and now the creation of the Department of Motor Vehicles and a new board with a more global insight.

The division's mission statement comes from the statutory purpose clause when the agency was first created. The language has withstood the test of time; it's been cited and recited in many, many Texas state courts and at least three of the four federal districts that I'm aware of in Texas. As you can see, it squarely identifies a regulatory entity and it tasks us with administering the provisions of what is now the Occupations Code that pertains to vehicle distribution.

Our division is made up of four parts:

Licensing, Administration, Consumer Affairs and

Enforcement. I read them to you in that way because that
acronym makes up LACE and I'll get back to that in just a
minute.

The Licensing Section does what its name suggests. It credentials everyone in the distribution

chain from the birth of a vehicle up to and including the ultimate conveyance to an end user. These are the types of businesses that we regulate. We regulate manufacturers and distributors -- you can tell the one in the middle is General Motors and you may or may not be able to recognize some of the others, but those are manufacturers and distributors and they're representative examples of them.

We regulate converters. These people convert tow trucks, et cetera. We regulate wholesale auto auctions. We representatives -- and on the slide it would just be a person -- we regulate representatives of converters, manufacturers and distributors. We also regulate franchise dealers, used car dealers, leasing companies and lease facilitators.

This is a look at the makeup of our Licensing body and this is somewhat intuitive. Texas is a big state, geographically and otherwise, and we have the largest number of licensed dealers of any state, and as you can see, dealer licensees make up the largest portion of our business. At the close of fiscal year 2009, we had issued about 22,000 licenses.

The Administration Section supports the other three as well as the director's office as it relates to leading proceedings at the division and at the State Office of Administrative Hearings. Two of the notable

work units in our section are our telephone information center -- they field about 10,000 phone calls a month; they receive about a thousand internet communications a month; they mail out a couple thousand complaint forms, information packets and license applications.

There's also our scan center which feeds electronic images to LACE that I'm going to talk about, and it's critical to all of the division's work flows. And additionally, this section administers all of the various vehicle shows and displays that go around in the state an there are nearly 2,000 of them annually.

Our customer affairs section administers the

Texas Lemon Law that allows consumers to seek repurchase
or replacement of a vehicle found to be a lemon, and other
provisions of the Occupations Code that concern vehicle
warranty enforcement. This section serves as a liaison, a
mediator and a case manager for consumers and vehicle
manufacturers, distributors, converters and even dealers.

We have trained ASE-certified mechanics who also have
mediation skills as our consumer advisors/case managers.

These are two of our creations that symbolize the Lemon Law. That one actually won an award. And we also have a radio jingle that won an award that I didn't attempt to try to play for you all today. We produced it a couple of years ago and the Texas Advertising something-

or-other gave it an award. The problem is we compete with so many other worthy public service type entities, all trying to get public service air time, that you don't get to hear it or see it much.

Finally there's our enforcement section and that performs the task of ensuring the rules and regulations associated with this industry are followed. It's a full service shop in the sense that we have clerical personnel to conduct intake of our complaints, very skilled investigators to examine each case, and many of these individuals have started second careers and they have a total combined commissioned peace officer experience level of 394 years. We also have licensed attorneys to prosecute matters that they deem to be violations and that cannot be settled amicably. And I'd like to come back to this group in a minute and give you a little more information about them.

There are the four sections of the division. By and large, they're not a drain on Texas taxpayers as the industry funds the regulatory program, and I don't mean directly -- our funds are not dedicated, but the amounts received in the various types of statutory fees more than make up the cost of running the division.

Here is a revenue chart breakdown of the funds, where they come from and how much is collected. This is

for fiscal 2009. It's a little higher, the \$12-1/2 million is a little higher than an average year because we've just completed the process of going to two-year licenses so there was a slight blip. In a normal year you would see funds collected between \$9-1/2- and \$10 million, and that's with most fee structures not having changed since 1995.

Hearings are a large part of what we do at the Motor Vehicle Division and I didn't put this in my presentation but I'm sitting here staring at Ms. Secord, and the end result after all those hearings are done many times is appeals that go on through the court system, and that's where she goes back to her regular job and represents us very ably.

But at the agency, formal complaints can be filed and a hearing requested, and there are several types of hearings. First we act as a forum for disputes between outside parties and it could be under the Lemon Law where a consumer has filed a complaint against a manufacturer, or it could be a franchise case which usually involves a complaint by a dealer against a manufacturer or a protest from a dealer which is protesting the establishment or relocation of a like line dealership in the trade area. The other type of case is an enforcement action brought by MVD prosecutors on behalf of the state in response to a

complaint by a member of the public, a dealer, a tax assessor-collector or others.

When any type of formal complaint is filed, it is docketed and it's sent to the State Office of Administrative Hearings. Prior to 2007, we held hearings at MVD by administrative law judges with subject matter expertise; they're now held at SOAH with judges who send us proposals for decision after the hearing is closed. Every docket is closed by some type of final order regardless of whether it is settled, dismissed or goes to a hearing.

In fiscal 2009, MVD opened 478 Lemon Law dockets, 61 franchise dockets, and 1,514 enforcement dockets which is actually a pretty low number for our business but 2009 was low for everybody.

Because of the nature of our business, we employ a lot of legal talent. In fact, we presently have over 333 years of collective legal expertise among our four sections. I just got notice, also last night, we're probably going to lose a little bit of that experience as one of our lawyers has just been called up to go back to Iraq as part of the Iraqi Freedom Program and he's a judge adjutant, I believe they call him, and he'll be performing that service over there for the next little while.

Now I would like to move to LACE. For many

years we worked in a standard DOS operating system environment and used a product called D Base 4 for our database needs, but as the division's responsibilities grew, so did the need for more advanced technology. The problem, in a nutshell, was that we wound up with more than 100 different databases and they were all being operated by different work groups in our division and they didn't talk to one another. And this is -- you could imagine, would be the problem.

A real-world example was that the Enforcement Section would have databases of license revocations and other scoff laws and persons of interests that the licensing clerk databases didn't talk to. This was the result. We literally had license clerks keeping track of bad people with sticky notes on their computer monitors. And then there was the mountain of paperwork that you can imagine any office has that you just add to and add to.

LACE is a relational database that feeds information to the entire division as well as outside stakeholders like Vehicle Titles and Registration and the Department of Public Safety. It goes further and actually automates most of the division's work flows. Today we have programmers designing and building the external components so that ultimately people can apply for their

licenses entirely online and the public will have access to useful information about violation histories, et cetera. The LACE system not only is the foundation for our work at the division but is also a critical part of the e-tag system Ms. Davio mentioned to you last time.

I'd like to show you a few of our activities now, if I may, and we've already seen the typical new car dealership that you might think of, used car dealership. Some of the motor vehicle operations that we regulate don't even come with the motor part. Here are some of the less than stellar dealerships we've encountered over the years.

In the new motor vehicle world, franchise laws are a complex matter and they're only getting more so. It takes specialized legal talent to administer franchise license regulation, and that's why I have to have the expertise of somebody like Molly Cost. She's my director of Licensing and Hearings and she is an accomplished attorney with special knowledge of franchise law.

A franchise agreement is required, in order to be licensed to sell new motor vehicles in Texas, and she and her staff must be able to navigate all of the different agreements in use. That notebook in the background represents the entirety of the agreement that that one page in the foreground shows, that's a franchise

agreement. Unfortunately, Molly doesn't know all the languages of the world. This is an example of a document submitted in response to our request for a sample franchise agreement that illustrates the complexities of dealing with regulated products that are coming from distant shores.

The Texas Legislature has determined that vertical integration which translates to vehicle manufacturers also being dealers is not good public policy. Consequently, it's unlawful in our state for manufacturers to be dealers. Franchise agreements are, by and large, contracts of adhesion meaning the power is onesided. One operation of our Licensing Section is to even the playing field. Franchise law used to be a little more rough and tumble in the old days, and the point of those slides, I wanted to just throw those in, is that Texas business men and women have taken great financial risk, pouring sometimes generations of effort and energy into their dealerships, and the Texas Franchise Law provides a small measure of defense against heavy-handedness.

Over the years the division has had to address attempts by manufacturers to avoid Texas law. One such case was a manufacturer that decided to try taking over all of its franchise locations in various markets and basically being the only vendor for that particular brand

for consumers in those particular markets. One of the target areas was Fort Worth, and the division turned back that effort.

Franchise cases typically involve boxes and boxes and boxes of evidence and whole teams of lawyers.

Here you can see an example of a hearing where the lawyers are stacked three rows deep and some of the exhibits reach from the floor to the ceiling.

Now I'd like to move back to the Enforcement group for just a minute, what types of violations do we deal with. They run the gamut. As you can see, there are quite a number of different categories of violations and we see an average of 5- to 6,000 complaints a year. We are almost entirely complaint-driven. They come from all possible sources, they come from consumers, they come from other dealers, they come from tax assessor-collectors, they come from federal, state and local law enforcement, and they come from other state agencies.

Here's an example of a program that had spread like a virus in other states and this type of advertising just isn't wanted in Texas. Now, I'll grant you that this looks like a great deal, but the extremely fine print -- that we couldn't even get on the screen for you -- defines MSRP not as manufacturer's suggested retail price, as we all know it, instead it's manufacturer's suggested retail

profit. In the present economic climate where dealer profits per vehicle can be razor thin, this ad is doubly deceptive.

At this flea market in the Valley, we encountered dealers and curb-stoners selling vehicles and counterfeit buyer's tags -- which was, of course, pre etags -- and the most troubling part, I think, is the sign that welcomes you and feels the need to remind you to settle disputes without violence.

We often get asked to participate with other authorities in enforcement operations. This task force map shows that since 1999 we have joined in with a number of task forces throughout the state. They may be drug enforcement driven or border contraband matters. Last month Charles Caldwell mentioned to you that stolen vehicles can be used to traffic contraband and humans. This is what we discovered during one operation on the border. a lot of our investigations are really not this dramatic.

I was a guest of Jeff Martin and the Independent Dealers and the TIDA convention last October, and I was asked what is the first or most important thing we look at when visiting a dealership, and my response was the sales file, documentation is key in pretty much every case. As you can see, counterfeiters are pretty good at

creating fake vehicle birth certificates, however, that doesn't make them spelling bee champs. Then we have a couple of examples of bad actors that were taking mileage off of vehicles by turning the front digit into a symbol and defrauding consumers. The A reduces the vehicle's mileage by at least half, and the dollar sign by at least two-thirds or more.

Sometimes we even get help from the neighbors. In this photo a neighbor was tired of seeing suspicious activity next door and provided us with photographs. This father and son team are seen rolling back odometers of high-end vehicles in a very nice neighborhood in the Metroplex. With some help from us, it ultimately became a federal case and they got an all expense paid vacation of sorts.

During execution of a search warrant in North Richland Hills sometime ago, in addition to illegal drugs, weapons and other contraband, authorities cam upon a stack of temporary tags, and it was common knowledge in the law enforcement community that the criminal element favored using these tags because of their ability to be anonymous with no probable cause for a stop. Of course, the e-tag has made a significant difference in that.

As I mentioned, most of our enforcement work is complaint-driven in other words, we're reactive. Recently

we've developed some procedures to try and be more proactive. One cost-effective way to do that is to periodically examine internet sites and solicitations by licensees. Where the internet used to be reserved for tech savvy, high-end car buyers, it's now become a communication tool of the masses and it's a major marketing medium. If we didn't pay attention to it, we would be ignoring a large portion of sales activity in Texas nowadays.

Not everything in enforcement is really depressing -- which you may be by now -- we believe that many dealer violations result from a lack of knowledge and to counter that problem, we've conducted free dealer training seminars for nearly a decade. Participants at these seminars receive a dealer manual, and it's a fairly polished and nice publication that I think all of you also have, but if you don't, we can certainly get you one, and it's full of information and it takes a day long for presentation by experts in the various areas. While much of the information is conveyed by Motor Vehicle Division employees, we also sponsor presentations by the State Comptroller's Office, the Office of Consumer Credit, and our sister division, VTR.

These seminars have been presented all over the state. We try to conduct at least eight and sometimes

twice that many in a year. The little numbers that are probably unreadable -- I think you can read those -- tell you how many times we've been in the various yellow locations. There is not a number, I think, for Webb County, and you can put a one there because, as we're speaking, we're conducting a dealer training seminar in Laredo today.

They are geographically disbursed so that every dealer in Texas gets an invitation at least once a year. To date we've trained nearly 12,000 participants.

Typically our program is rated in an end-of-seminar evaluation, with 98 or 99 percent finding it excellent or good. Sometimes there are a couple of folks that rate us fair or below, but keep in mind that the seminar is also used as a settlement tool for offenders which means that they're probably not really happy to be there.

Nonetheless, we think it's a valuable option for someone who may have been unaware of their legal obligations.

We also conduct a lot of one-on-one education at the dealer's place of business, and we aren't even able to keep statistics on how many times a day our investigators answer questions from licensees about how to comply with the various laws and regulations on the book.

Finally, I'd like to talk with you for just a minute about customer service. When you're operating in a

regulatory environment, customer service is problematic.

First off, there are -- let me say it this way, with no disrespect whatsoever intended for the heroism and bravery of firefighters, we're a little bit like a fire department, nobody calls us, really, other than when there's someone who's in need and to them it's pretty urgent -- this is regardless of what section of the division you're talking about.

When someone calls about their license, it is of the utmost importance to them and has the urgency of a fire because it's their livelihood. No one ever calls our Consumer Affairs Section to tell us their car is running fine and they just want to check in, they call us because the most expensive commodity they own and the means by which they get to work or school or what-have-you is failing them and it's an emergency. And of course, when a dealer calls to report that another dealer is doing something wrong or that there's an unlicensed person selling vehicles thus creating an unfair marketplace, it's critical to the caller that we bring swiftly the full wrath of the State of Texas to the situation.

Customer service is a tricky thing, though. Is it customer service to push an application through while others wait their turn? Or is it customer service for someone to get by with less than a two-year lease while

others have to have the two-year lease? Or for a surety bond not to have the exact right name? Well, we face these questions and these pressures every day.

And it depends on who the customer is.

Consumers and dealers holding bad drafts will tell you that they're our customers and that they want accurate bonds and it's important for their claims. Of course license applicants are our customers, but the established dealer community and our existing licensees will tell you that they're our customers too because they expect a minimum standard for someone to participate in their industry and we're the ones tasked with upholding that standard.

It's a fact that the Lemon Law is intended to be consumer-friendly. Believe it or not, though, there are actually incidents where consumers mistreat vehicles or find that they bought more vehicle than they can afford and they expect the Lemon Law to require a manufacturer to repurchase it. Since we serve as a forum for those disputes, both parties are our customers and both parties deserve fair treatment and due process. We demand nothing less from ourselves, but still no matter how well we perform, cases that go all the way to a decision means that someone is going to win and someone is going to lose. It's sometimes hard for that latter group to concede that

they got good customer service.

You know, regulator and bureaucrat have taken on some negative connotations and I'd like to offer another point of view. My friend, Jerry Dyke, the former director of Vehicle Titles and Registration, once said that a bureaucrat is an administrator who treats all fairly and equally, given the same set of circumstances under the rules and policies that you all set, one who works in public service for the betterment of society and government. And I can tell you that this sums up how the people of the Motor Vehicle Division try to conduct business and how they view themselves.

Now, some of my friends and co-workers like to use the phrase world class customer service, and to be fair, I have to tell you there are a lot of places in the world where the last thing I think of is how well the customer is treated, but at MVD we're always willing to stretch, our competitive spirit compels us to strive for what my managing attorney, Bill Harbison, calls galactic customer service, and we think this is what ti looks like.

Now, I intended to end on this slide when this presentation was scheduled for your December meeting, but by happenstance, we received what is known in our organization as a smile letter, and I think it really represents what customer service looks like. I hope that

you can read that, most importantly, the yellow highlighted line and the fact that it comes from an organization that is a standard-bearer for quality and customer service.

Well, there you have the division. I could spend a lot more time going into a lot greater detail.

All of our work groups have interesting stories and I'm always happy to tell them. But I do want to say that the PowerPoint presentation wouldn't have been possible without contributions from Donna Norton at the Texas Auto Dealers Association, Mary Clare Campos with the Texas Recreational Vehicle Association, and Lisa Moore with the Tarrant County Auto Dealers Association, and then there was Jess Clem and others on my staff. I'd like to publicly thank them in front of you for their help.

I hope I've provided you some small measure of our mission or insight into our mission, and I'll be happy to try and answer any questions that you might have.

MR. VANDERGRIFF: Any questions of Mr. Bray?

MR. GILLMAN: Excellent report. I don't have any questions but I do have a comment. Mr. Bray, you do a good job and thank you very much, and your people do a good job, and every time someone calls, it is an emergency every single time and thank you for appreciating that.

MR. CAMPBELL: Brett, just one question real

quick. And I enjoyed seeing the pictures and everything too and it was very good. Just a question on your education portion of it that you give education, has there been thought or an attempt to maybe initial new dealers, new licensed dealers as they're going into the business, is there a required education program of any sort?

MR. BRAY: You know, I'm going to ask Molly to come up her with me while I'm searching my brain because it's been the subject of legislation the last couple of sessions. It failed in '07, I can't remember if it passed in '09 or not because the Independent Auto Dealers Association at the forefront of trying to get mandatory dealer education.

And to buy just one more minute of time, some of the feedback we get at our training seminars is that you have different types of people showing up, we have repeat people, people that have been there one or two times before, and they're old hands at the industry. You have people that have been in this business as long as you have, and they're interested in one kind of training, and then there's people that are thinking about maybe being a dealer and they're at the other end of the spectrum and so they need probably a different kind of training, and we only provide the one course and it's a fire hose that pours information into them as fast as we can.

MS. COST: For the record, Molly Cost, director of the Licensing Section in the Motor Vehicle Division.

There have been a couple of attempts, I think one was in the last legislative session, by the Independent Auto Dealers Association to have required dealer education prior to getting a license. It would have grandfathered dealers that currently had a license and I believe it was only aimed at the independent automobile dealers, not at the franchise dealers. Unfortunately -- or fortunately, I guess, depending on which side of the issue you're on -- that bill did not pass in the last legislative session. So at the current time, we do not have mandatory initial education or mandatory continuing education for dealers in the state.

MR. BRAY: And as you know, as a regulator and bureaucrat, we have our hands tied behind our back and really can't lobby or say anything to the legislature if we're not asked, but I can tell you that we have had some reservations about these efforts in the sense that some of the wording appears to have jeopardized our existing program, and we feel like we're doing quite a service for the dealer community and the public and are kind of reluctant to want to give it up.

MR. CAMPBELL: Well, and I think you are doing a great program, you've got a great program going. I'm

just thinking it seems like it's the people that aren't aware of the new laws and regulations and stuff that are coming out, or it's the new dealers just coming in just not aware of it. And I think it would be something that would be good, in the long run, it would be good for the state.

And then I had one question. On the material we have here, there's two pages in here that give two different -- under the new 215.144 Record of Sales and Inventory, on one page it says, "In general, the new language extends the length of time that a dealer must maintain records of purchase and sales at the dealership so that they may be available for inspection." And it refers to 48 months versus 24. And then on the very next page under the same title of 215.144, it says under this adopted new section it goes to the preceding 13 months -- let's see, purchase and sales that occur in the preceding 13 months at the licensed location. So I'm not totally sure I understand what you're trying to get to there.

MR. BRAY: Well, Molly can clean this up for me, but I think you're jumping ahead in the agenda. This is the part of the rule package we're going to ask you to adopt and the reason, I think, for that discrepancy is the first version you read was what we had originally proposed, 24 months onsite, 48 months in total, and the 48

1	months is to be consistent with all the other agencies
2	that are regulating you. Because of comments submitted by
3	the Texas Auto Dealers Association, we reverted back or
4	settled on the 13 months that we had before and not the 24
5	months, but kept the 48 months because that wasn't
6	objected to originally.
7	MR. CAMPBELL: So the 48 months is offsite but
8	13 months onsite?
9	MR. BRAY: Yes, sir.
10	MR. CAMPBELL: Just want to make sure I
11	understand that correctly.
12	MR. BRAY: That's what's going to be proposed,
13	that is what's proposed.
14	MR. CAMPBELL: Okay, thank you. Great job, by
15	the way.
16	MR. VANDERGRIFF: Any other questions or
17	comments?
18	(No response.)
19	MR. VANDERGRIFF: Great, thank you very much.
20	I will note that we've been at it for about two
21	hours. Would the board, at their pleasure, like a break,
22	or would you like to no pun intended motor through
23	the Motor Carrier Operations presentation and at that
24	point then we'll take lunch after that. So go, all right.
25	We have with us Carol Fallin and Carol Davis.

MS. DAVIS: Good afternoon. I'm Carol Davis, director TxDOT's Motor Carrier Division, and next to me is Carol Fallin who is the Motor Carrier Operations manager for the Texas DMV.

As you know, Motor Carrier Division functions were unique among those transferred to the Texas DMV in that MCD's highly integrated functions were split between the two agencies. So Chairman Vandergriff has asked us to update the board on the Motor Carrier Division activities and give you some background, as well as the impacts of House Bill 3097 on those activities.

If I can figure this one out. Sorry, as my husband well knows, I'm remote control challenged, so just another example.

Okay, just to give you some background information, from the beginning, Motor Carrier Registration and Enforcement activities were transferred to TxDOT from the Railroad Commission in 1995, and the purpose of that and the focus of that was to create a customer-centric virtual one-stop shop for motor carriers. Under those combined programs, we were able to significantly streamline and automate processes, increase fee collections, and obtain some additional enforcement authority that was helpful to us, including size and weight administrative enforcement functions.

I'm sorry, I do have a PowerPoint and I don't have any jokes.

As I said earlier, House Bill 3097 split those functions from the Motor Carrier Division that were highly integrated between TxDOT and the DMV. Initially, we had 44 dedicated FTEs to do size and weight enforcement and motor carrier enforcement at TxDOT, 30 of those employees were transferred to the DMV, 14 stayed at TxDOT, and then five additional employee slots were given to the DMV for management and support services that were previously provided under the TxDOT Motor Carrier Division.

about, motor carrier registration and enforcement includes commercial carriers, charter buses, household goods movers and consumer protection programs for customers of household goods movers. Oversize and overweight permitting and size and weight administrative enforcement stays with TxDOT, and that administrative enforcement is just not for permitted loads but it's also loads exceeding legal size and weight that are divisible. For instance, obviously the wind turbine blade that you see up here is not divisible and the gravel is divisible, can be split into smaller loads.

To give you some background on our volume, we issued 580,000 permits in FY 2008. That number is down

about 9 percent for 2009, but overall that's 33 percent increase over 2003, and that's an indicator of the economic activity that's going on in our state and in our ports and our manufacturing activity. Also on the motor carrier registration side, we registered about 46,000 active carriers operating over 330,000 vehicles on our roadways.

Those functions combined contributed about \$48.8 million to the General Revenue Fund and about \$63 million to the State Highway Fund.

Again, just more background. On the motor carrier side they process about 100,000 insurance filings annually, handle about 140,000 public assistance calls, do numerous onsite investigations, and like Brett's, the majority of those are complaint-driven. We've never had the staff to go out and look for violators or alleged violators. And then handle about 2,000 phone calls daily and about 80 percent of our transactions are initiated online by our customers. And with those online transactions, that has been able to save us a lot of personnel time and allowed us to become a lot more efficient at what we do over there.

Just to give you an idea of the risk of public service failures, what happens if we don't do our job correctly and don't do it right. Obviously there are

public safety risks, the integrity of the infrastructure and the transported loads. Some of the loads that these carriers are moving are worth millions of dollars and we need to make sure that they get there safely and that the public is safe and that they're not tearing up bridges and roads, but also that the load is not torn up.

Also on the consumer protection side, we have a lot of, for instance, motor carriers, household goods movers that will go on Craig's List and advertise we'll move your whole household for \$300 or whatever, when they're not registered, they're not insured. And when you're talking about people's household goods and household items, they take those very seriously and they take those losses very seriously, and that's another reason why these programs are so important.

Then obviously there's the economic vitality and fee collections issue. Again like Brett, we want to make sure there's a level playing field among our carriers, and then also those fees that we collect are used to support TxDOT and the Texas DMV, and if we're creating barriers to compliance, we are making an uneven playing field for our customers. And then finally, there is a risk to the agency reputations, to both TxDOT and Texas DMV if we're not doing this right.

In graphic form, some risk of public failures.

The photo on the left is ii Kansas, not in Texas. It was a piece of equipment on the back of a trailer that wasn't loaded properly and sliced through an overpass. And then over on the right-hand side, my right, is a moving company who had numerous violations, including holding people's household goods hostage.

So our challenges in splitting up our functions between the two agencies and making sure that both are stood up properly to succeed have been, first of all, a logical way to separate the programs and the people.

Because the size and weight enforcement and the motor carrier enforcement were one program, we didn't have people that just did size and weight and just did motor carrier enforcement. So Carol and I worked very closely with our staffs to determine how to split up those programs and how to split up those people based on what our employees were best at.

Then again, lost knowledge base and skill sets, a lot of our folks have been with TxDOT or been with state government for more than 20 years, several have retired over the past few years, several more are eligible to retire, and then we're splitting that knowledge base, again between two agencies so that further dilutes that information knowledge base that's available to us.

We're also concerned about the increased

complexity for consumers and our customers. No, don't call TxDOT, that's now DMV; no, don't call DMV, that's now TxDOT. We're trying to work through those issues.

Another big issue that we've had is dividing our shared computer applications. We have one complaint management system that we use for all types of complaints and trying to go through and split out those complaints and flag them to figure out who they belong to, which agency they belong to and track those has been a challenge.

And then again, the long-term division organizational structure on both sides within TxDOT and within the Texas DMV.

Some of the things we're doing to meet those challenges are we're still operating in one location during the transition. That's going to change this spring when the Texas DMV personnel move over to Building 1 at Camp Hubbard. We've undertaken extensive communication efforts between the agencies and with our customers to let them know what's going on and what to expect from us, we continue to collaborate very closely. And then on the computer application side, we are going through those applications and defining our needs for each agency and having our developer code different kinds of user rights for different employees. And then last, but certainly not

least, is continue providing great customer service.

I think Carol wanted to give you guys an update on what's going on currently with Motor Carrier Registration and the Motor Carrier Enforcement programs.

Thank you.

MS. FALLIN: Good afternoon. I just wanted to give a brief update on some projects and staffing. I believe there is a slide that is enclosed in your presentation. I just wanted to talk briefly about our complaint management system. We have currently started the process of splitting that system to accommodate both TxDOT MCD and the Texas DMV Motor Carrier Division. This entails coding user agency rights and having the capability to provide the specific reports that will be required to provide stats at the end of the year. This is estimated to be completed in about four to six months.

In addition, our consumer protection awareness program, we're starting to gear that back up. We were working with that previously prior to the split of the agency. We are working with the moving associations across the state and the moving industry to enhance public awareness and the requirements for the moving companies. We hope to accomplish this through education and training of our rules and regulations.

Lastly, I just wanted to talk briefly about

staffing. Since our split on November 1, we are doing more with less. One specific area is our investigator staffing level; we were at 14 investigators and now we are currently at seven investigators. We had to move around some personnel to accommodate the split, and so now that brings us down to six investigators statewide. We still have virtually the same amount of workload that we had prior, minus the oversize and overweight investigations, so that is a concern.

While we are operating with less, I can assure you that the Motor Carrier Division employees are providing excellent customer service, we are excited about the DMV and our anticipated move, and we're also looking forward to fulfilling any goals or plans that the board may have for us. Thank you.

MR. VANDERGRIFF: Can I ask a question about he 14 to six, did the eight stay with the --

MS. FALLIN: We had 14 investigators, we split those down the middle so that gave seven and seven. We lost supervisors in the DMV Motor Carrier so we had to appoint some interims, and those came from the investigator staffing which brings us down to six.

MR. GILLMAN: What is your total count?

MS. FALLIN: Total account of what, sir?

MR. GILLMAN: What's your total number of

people in your department? 1 2 MS. FALLIN: I have 30 employees, sir. MR. GILLMAN: That includes everybody. 3 MS. FALLIN: On the DMV side. 4 5 MS. DAVIS: On the TxDOT side that's 110, I 6 believe. 7 MS. MARZETT: Ms. Davis, what are you doing to our -- or I might have the Carols mixed up -- Fallin, what 8 are you doing to fill the gaps with your shortage in 9 10 staffing? MS. FALLIN: Well, we appointed some interims 11 12 for the supervisor positions and the investigators, we're just trying to work as diligently as we can while we're 13 14 still accomplishing some of the other goals that we've 15 set. So I mean, we can only do what we can do with what 16 we have. We have five investigators that are throughout 17 the state and then we have two investigators that are located here in Austin. 18 19 MS. MARZETT: Just so we get a sense of the impact of the shortage of capacity here, your 20 investigators now, the delay is now what versus what's 21 typical? I'm kind of trying to get a sense of the impact 22 23 to the shortage in capacity, what is it creating as far as 24 the investigating process?

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MS. FALLIN: Well, there's the household goods

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1	and motor carrier complaints are never-ending, so where we
2	had 14 investigators to accommodate those throughout the
3	state and here in Austin, now we only have six. So we had
4	double the personnel to accomplish the workload and now we
5	have less than half to accomplish the same in addition to
6	the additional complaints that are coming in.
7	MS. MARZETT: Just to clarify the question, if
8	it typically takes you one month to investigate something,
9	the delay is causing what, now is it two to three months?
10	MS. FALLIN: No, it's not a monthly, it's just
11	the amount of investigations that we're able to complete
12	MS. DAVIS: Can I clarify it?
13	MS. MARZETT: Yes.
14	MS. DAVIS: I think that question is really
15	hard to answer because all that information is in our
16	complaint management system and we can't tell what the
17	turnaround time.
18	MS. MARZETT: The service delay is causing
19	something.
20	MS. DAVIS: Right, but we can't
21	MS. MARZETT: You can't quantify it.
22	MS. DAVIS: right, we can't quantify it
23	until we get that system fixed and split apart.
24	MR. WALKER: The better question is why did the
25	investigators stay over at TxDOT when there's no

investigations to do at TxDOT? 1 MS. DAVIS: We have size and weight 2 3 investigations to do at TxDOT. 4 MR. WALKER: How often do you do that? 5 MS. DAVIS: Every day. MR. WALKER: That's being handled by -- the DPS 6 7 are doing that, I thought. MS. DAVIS: Well, those are roadside 8 investigations, ours are administrative enforcement 9 10 investigations, and we get a lot of those from our permit office, from permit officers actually, we get them from 11 competitors, so-and-so moved this load without a permit, 12 or they or their application didn't have the correct 13 14 information about the size and weight of the load, if they 15 hit a bridge, if they hit something, we'll do an investigation. So yes, we're pretty busy over there too. 16 17 MR. WALKER: Of course, I've got a couple of 18 questions. I guess it says back here you streamlined and 19 increased fee collections. How did you increase fee collections? 20 MS. DAVIS: Well, we did a couple of things. 21 We made it a lot easier for carriers to register with us. 22 23 We went from a 31-day business turnaround time in 2003 to

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a two-day business turnaround time currently. And the way

we did that was we developed an online system so that all

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of those applications didn't have to be processed manually. So what we're doing is we're taking away barriers to compliance; we don't want to be the roadblock to somebody who wants to comply but just can't wait for us to get it together and get them their permit.

MR. WALKER: Well, I understand you've implemented the process, but by improving the process, you're saying that people are now paying that weren't paying?

MS. DAVIS: Yes, we believe so.

MR. WALKER: So more people that should have been paying are now paying because of the process.

MS. DAVIS: Right. And then on the other side of that is we also worked -- on the permitting side we worked very closely with industry, with counties, with manufacturers to have our permit fees increased and those hadn't been increased in about 20 years. As you know, those were increased in 2007, I believe.

MR. WALKER: You had a huge glitch in your department here about two weeks, three weeks ago, you were shut down for two days because you had some computer problems. What was happening?

MS. DAVIS: I'm not sure it was just limited to the Motor Carrier Division, but it was on the TxDOT side and I'm not really sure what the issue was, I'm sorry.

MR. WALKER: Do you understand the implications 1 2 that that had? MS. DAVIS: Oh, I totally understand the 3 implications. I'm just not the person who's allowed to 4 5 push the button to fix the problem, that's a whole other 6 bureaucracy there between TxDOT, DIR, there's several 7 agencies involved in that process. MR. VANDERGRIFF: But my understanding was it 8 was a software problem that TxDOT perhaps took down their 9 system to make some fixes in there and your division, as 10 well as did other divisions, not just Motor Carrier, 11 12 didn't get the notice of that until it obviously hit your 13 constituency. 14 MS. DAVIS: Actually, I think that's correct. MR. VANDERGRIFF: Yes, that's what I thought. 15 16 MS. DAVIS: They upgraded some software and it wasn't fully tested before it was implemented. 17 MR. WALKER: Well, I can just tell you as a 18 19 user and a consumer of your service, okay, that when you shut down like that without giving us -- even if you did 20 give us warning, we have customers that are dependent upon 21 us moving oversize dimensional loads that now we can't do 22 23 because you don't have the ability to issue that permit. I understand that, and when that 24 MS. DAVIS: 25 happens people are screaming at me all day and I'm also

screaming at people all day. I mean, we do understand 1 that happens but we can't control every situation. 2 MR. VANDERGRIFF: And I want to emphasize the 3 point that you were shut down because of software upgrades 4 5 from TxDOT's global perspective. 6 MS. DAVIS: Right. 7 MR. VANDERGRIFF: And therefore, got about the same notice that the trucking industry got. 8 MS. DAVIS: Right, we come in to work at six 9 10 o'clock in the morning or 5:30 in the morning and our computers don't work. That's when we realized there's a 11 12 problem also. And what we do in those situations is we have backup procedures to try to start taking applications 13 14 manually, but again, we can't do manually what we can do 15 online. MR. VANDERGRIFF: Mr. Walker, one thing I would 16 17 suggest perhaps is that from our board, with your able 18 assistance, we put a letter together to just note to TxDOT 19 about making sure when they make upgrades to the system that it is impacting your business. Is that fair that we 20 do that? 21 MR. WALKER: I will. 22 23 MS. JOHNSON: If Mr. Walker would also add to 24 that to encourage upgrades to occur -- and I don't know

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how this would affect you -- over the weekend or at least

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at night so it's not interrupting the daily business would be very beneficial.

MR. WALKER: Well, Carol can attest to this, we move oversize loads -- as a matter of fact, we're unloading the Anatok, the largest airplane in the world, Sunday night at 5:00 a.m. in order to move some big transformers that are 96,000 pounds coming in from China. So we move seven days a week on over-dimensional loads.

MS. DAVIS: We have another very large load that's being moved right now from Houston to north of Waco, it's a 1.7 million pound load, and it's going day and night movement, so same thing.

MS. JOHNSON: But there has to be some time period when system upgrades can be performed because we're going to be facing a lot of that in the next couple of years as we move forward.

MR. WALKER: That's correct, and we obviously most of us probably have some kind of computer, I've got two different software packages running in our company, we have other vendors and they provide us we're going to shut down and do software maintenance, they give us a time at 1:00 a.m. in the morning they're going to do this, we're going to be down for two hours. We have GPS tracking on all of our trucks, QualCom notifies us ahead of time.

The problem that we have here with TxDOT,

however, is that we are trying to coordinate -- and Carol knows this as good as I do -- we're trying to not only coordinate with her, but we've got an airline, for example, that we're meeting Sunday, it was supposed to be here on Saturday, then the Anatok wasn't going to get in till 5:00 a.m., I heard this morning from my office that the plane is not going to arrive now until Monday morning.

So we're continually trying to adjust our schedules and her permitting office to match and kiss all this stuff together. And we've got to kiss with Louisiana, we may be going into Louisiana, Louisiana wants to know what time we're going to be getting into their state because they have to issue us a permit. The implications is that these permits sometimes are not 50 cents, they're costing us hundreds of dollars and they expire and we have to go back to her and get renewals or buy new permits which are very expensive to our customers when we start moving these over-dimensional loads and stuff.

MS. JOHNSON: A notification obviously would help but it's still not going to solve your problem, but advance notification is critically important.

MS. DAVIS: Right. And one thing that we're looking at is using social media, using Twitter or using some way to notify our customers of what's going on when we have emergencies like that, and then we have another

program that we're working on, our TexPros program, and that's going to give us the ability when you have a problem on a roadway after a permit has been issued, that will give us the ability to identify who all of those customers are that it will affect and then to email those customers and tell them there's a problem and that they need to be rerouted or that they need to contact us for additional information.

That project is coming very close to completion, it has never been fully funded by the legislature, though it's been approved. TxDOT has allocated the majority of the funding for that but we still need Legislative Budget Board approval to transfer authority to finish out that project.

MR. WALKER: Another thing, Carol, that has always been really confusing to me in my business and yours is that when we're moving -- and I understand that you work for the State of Texas and that we're working for the State of Texas as a board here, and that the State of Texas does not own every road and that my customers are not always on a state highway, and so you can't permit my truck on -- you can on a county road, I guess, but you can't on city streets, you can't on private streets, you can't on any of these others, and all these other jurisdictions, so you pick my truck up at a point where it

enters a state highway. I'm subject to having these local municipalities coming out and finding me and trying to say I don't have a permit on that street when nobody issues a permit on that street.

MS. DAVIS: Correct.

now.

MR. WALKER: How do we get rid of that problem?

MS. DAVIS: Well, one of the things that we're

doing -- and again, a lot of this is going back to

technology -- one of the things that we're building into

TexPros is it is going to identify every roadway within

the state and who the owner is, who the municipality is

with a phone number of who you need to call when you're

going on this roadway in this town. So that's going to

help because we don't even have that information right

The other thing is we are looking at -actually the project board has approved some add-ons to
TexPros that will give us the functionality to issue
permits for other entities in the future.

MR. WALKER: There you go, there's the solution.

MS. DAVIS: Right. But again, we need to get funding authority for the rest of that project, and that way when a municipality wants to issue permits for their municipality, we can say we've already got the system,

we've already got it mapped out, our restrictions flow together. As you know, part of the problem is we might take you to a roadway, an intersection and we don't know what restrictions are on the city street, if they've got construction, if they've got a bridge out or whatever.

MR. WALKER: Or how much capacity the bridge holds.

MS. DAVIS: Right. And this would give us the capability of collecting that information and issuing those permits in the future if other entities are interested and if it rolls out that way.

MR. VANDERGRIFF: I have a question for you just out of curiosity. The private roads that are becoming now more prevalent, toll roads that are out there, do they issue permits through?

MR. WALKER: We start a permit on a state road, it takes us off of a state road, and then they say go do what you want to do, where are you going to come back onto the state road, and then the state says we own Highway 6 and the interstate. I-10, for example, is a federal highway, State of Texas doesn't own it but I-10 is a part of Highway 90 which is a state road, so there's kind of an interrelationship between Texas and the federal government on an interstate on who owns that highway. So Texas can route our trucks on I-10, looking at the dimensions of the

road, the bridge strengths, the capabilities and so forth. 1 But for example, most companies are not located 2 on highways. Let's just say my office is on Mitchelldale 3 Street, has a fronting on Mitchelldale, that's not a state 4 5 highway so when I leave Hempstead Highway and turn on to 6 Mitchelldale to come into my property, I just left the 7 state highway system and I have no permit to operate on 100 yards of a city street to get into my office. 8 9 city can actually write me a ticket for operating 100 yards distance from Hempstead Highway into my gate without 10 having that permit on that one little segment. 11 12 MR. VANDERGRIFF: So what happens at the Hardy Toll Road? 13 14 MR. WALKER: But if you were to go to the City 15 of Houston and ask for a permit, they wouldn't even know 16 where to tell you to go get one. 17 MR. VANDERGRIFF: I see that problem, but I was 18 just curious like, for example, the Hardy Toll Road, TxDOT 19 doesn't manage that, so what happens if you had to go on that road if it was the best route, you just don't? 20 MR. WALKER: Carol won't take you on that road 21 MS. DAVIS: I can't. 22 23 MR. WALKER: So she takes me on her roads. MR. VANDERGRIFF: But would the same issue 24

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apply, though with those, if you drove on the Hardy Toll

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Road?

MR. WALKER: I guess whoever controls the toll road could come to my truck and stop us and say we don't want your truck on this road or you're tearing up our road and we're going to cite you for tearing it up.

MR. VANDERGRIFF: In most parts you don't travel on toll roads and you don't send them on toll roads.

MS. DAVIS: Right. If I can interject, when we first started working on the toll road system, especially here in Central Texas, we had several meetings, and our first thought is no, we won't use them because you've got those big wide loads aren't going to be able to fit through toll booths, they're not going to be able to fit under the arms. If they can only go five miles and hour, they're going to impede traffic which obviously negates the purpose of the toll road.

So over time, as the toll road system has evolved, they don't have the small gates like we were envisioning ten years ago and have all electronic tolling and things like that, so we are looking at, again, how do we get with those entities and how do we see about using their toll system if they want us to or if they'll allow us to.

MR. VANDERGRIFF: Well, in the major

metropolitan areas, the toll roads are becoming an increasing -- that's what's being built is mostly toll roads. I can envision in the Houston area and Dallas area in particular, just about any new road is going to be a toll road.

MS. DAVIS: Right.

MR. VANDERGRIFF: How do you service those areas without going on a toll road.

MR. WALKER: Well, another problem -- and I don't know whether Carol is aware of this or not, and maybe I'm just airing some bad laundry out here that goes on and maybe everybody needs to know some of the things that are happening -- is that she issues me a permit and she also will tell me in certain situations that I need an escort with my load, and so the obvious person to escort our loads is a police officer, one of Mr. Rodriguez's men. So we go over here and hire a policeman to escort our load on the highway that we're on this permit that Carol has entered, the police officer shows up and says let me look at the permit, I know a better way, and the police officer says we're not going this way, we're going another way. Happens all the time, Carol, happens every day.

MS. DAVIS: I understand that, one city in particular.

MR. WALKER: Yes, Houston. And I've got a

1	truck driver here and he's got a policeman sitting here
2	with a badge and a gun and the policeman says hey, we
3	ain't going that way, come on, I know a better way, and
4	our driver, is he going to argue with your police officer
5	or is he going to take and do what the permit says to do.
6	We have hit bridges and then the police officer says oh,
7	I'm out of here, and takes off and leaves us stuck under a
8	bridge that he took us where weren't supposed to go.
9	MS. DAVIS: And then we come back and fine them
10	for being off route.
11	MR. WALKER: Yes, happens all the time
12	MR. GILLMAN: Johnny, it would appear to me
13	that the key to the deal is when you first started you
14	said you hired the police officer, so I would think that
15	you would have some say in whether or not they go along
16	with the permitted route.
17	MR. WALKER: No.
18	MR. GILLMAN: And I'm a layman, I know nothing
19	about it.
20	MR. WALKER: I've got to be careful because let
21	me tell you how this works. What happens is in the City
22	of Houston I don't know that Carol knows this or not
23	there's a book. Do you know about the book?
24	MS. DAVIS: You've mentioned the book to me.

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MR. WALKER: There's a book that the police

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pass around and you sign up to be in the book, because it's a lot of extra money these police officers make on the side doing funerals and escorts if you have a motorcycle. Well, if you have the book and I have to have an escort and he has to be sometimes specified that he has to be a police officer, can't be just an outside anybody with a pickup truck -- I don't even know if you need a permit to do any escorting or not -- but what happens is we have to use the police officers in that city and so they control the book, and if you take and argue with them, then they say we won't work for you and then you have nobody.

MR. VANDERGRIFF: It sounds like we have more issues to be working with you on.

MS. DAVIS: Yes, and we need to do a better job. We work with law enforcement a lot, we train a the DPS academy, and it sounds like we need to do a better job educating and some outreach with some of our municipal police officers.

MR. WALKER: It's municipal police, it's not the DPS.

MR. VANDERGRIFF: To both of you, I appreciate you coming. I know you're kind of a split group here and we feel the kinship to both sides of this and hope to work together.

Maybe another question?

MS. JOHNSON: I have a couple. I want to thank you because I know that you both are facing and both of your divisions are facing a great many challenges, and you're on my legislative list, have been since I had my training. But I do have a couple of questions. I was going to ask if you're doing public education. As many times as I moved, I never knew that the person moving me was supposed to be licensed, so I'm glad to see you're doing that, however, the more attention you do bring to that, you're compounding your problem of having insufficient personnel and support.

Back to the issue with the investigators, when you were together were those investigators necessarily doing anything different than what they're doing now, or were they duplicating an effort? Because if you already had some over here working in one and you had another group over here handling complaints, I'm not certain I see that you're necessarily short except for the one position.

MS. DAVIS: They were together. An investigator could go do a motor carrier and size and weight enforcement investigation at the same time. You didn't have one guy and one guy.

MS. JOHNSON: So now where you could have one person investigating both, you have two people that are

having to go and investigate the one issue. 1 2 MS. DAVIS: Yes, ma'am. MS. JOHNSON: Okay, that makes sense to me. 3 The bottom line is your whole situation needs to be 4 5 addressed. My greater concern for what's happened to you 6 in this legislation is that we've become a very -- on both 7 sides we're no longer providing a good service too the customer because now they have multiple agencies. 8 nothing more frustrating to the public or a business 9 person than having to deal with multiple agencies, and so 10 somehow be collecting that data because that's going to 11 12 have to be taken to the legislature for them to understand. 13 14 And unless something has changed, I understand 15 a thousand people continue to move to Texas, you're moving 16 a lot of loads, there's a lot going on, and so this problem is getting worse, not necessarily better. So I 17 18 thank you for what you're doing and we'll work on it. 19 MS. DAVIS: Thank you. 20

MS. FALLIN: Thank you.

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MR. VANDERGRIFF: Thank you very much. We did have one more item that was on our agenda prior to executive session, and I will look to Rebecca Davio. Is this a brief update?

MS. DAVIO: There's nothing urgent about it.

MR. VANDERGRIFF: All right. Then I think we will defer that, that will work for us.

And with that, I want to note to you that it is approximately -- never mind, I don't have he right script, let me make sure I read the right thing here. I wanted to make sure to note that we are going into closed session, pursuant to Government Code -- actually, first we're going to take a ten-minute break, it is approximately one o'clock, but then at approximate 1:10 we will go into closed session, pursuant to Government Code Section 551.071, to obtain the advice of legal counsel regarding agenda items 2.A.1.d, 2.A.2, 2.A.3, 2.A.4, 2.A.6, items number 4, 5, 6 and 7, and to consult regarding pending or contemplated litigation, a settlement offer or drug testing. And I missed one, I needed to add item 3 as well -- never mind, I didn't think so. Excuse me.

And pursuant to Government Code 551.074, we will also discuss personnel matters relating to the appointment of an executive director and other personnel.

Again, it is approximately two minutes after 1:00 p.m. on January 14, 2010. For those of you in the audience, I would anticipate being in executive session for approximately an hour, and we will reconvene in open session after that. With that, we are adjourned from the public meeting and we are in to executive session in ten

1 minutes.

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(Whereupon, at 1:04 p.m., the meeting was recessed, to reconvene this same day, Thursday, January 14, 2010, following conclusion of the executive session.)

AFTERNOON SESSION

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MR. VANDERGRIFF: It is approximately 2:27 p.m. and the Texas Department of Motor Vehicles Board is now back in session. We want to note that no action was taken during the closed session.

And with that, we come to the first item on our agenda after executive session which is the -- excuse me -- that item we discussed earlier and that was the appointment of an executive director. As I noted yesterday, we did hold further interviews and we expect some announcement to be imminent but it will not be at today's meeting.

The next item is item number 5 which is the election of a vice chair of the board, and I would be pleased to entertain a nomination. Does someone have a nomination?

MR. WALKER: I do. I'd like to nominate Cheryl Johnson for the position.

MR. VANDERGRIFF: Okay, great.

MR. GILLMAN: I'd like to second it.

MR. VANDERGRIFF: We have a second from Ramsay Gillman. Do we have anyone else who would like to self-nominate or be nominated for that job, anyone else?

(No response.)

MR. VANDERGRIFF: No? All right. Well, with

that, I think we have one nomination and I would propose 1 that we welcome Cheryl to the vice chair position by 2 acclamation, so thank you very much. It passes 3 4 unanimously. 5 MS. JOHNSON: Thank you. 6 (Applause.) 7 MR. WALKER: I don't think there was a pay raise there, Cheryl, don't get that excited. 8 (General laughter.) 9 MR. VANDERGRIFF: No, but there's some relief 10 from me, so that's some positive there. 11 12 MS. JOHNSON: He told me he's going to keep me busy. I would like to say thank you, I'm honored and 13 14 humbled that the members of this board see fit to allow me 15 to assist our chairman, and I do want to say to the department as well as to the board and the chair, I will 16 17 do all in my power to facilitate and advocate for this 18 agency and make sure that we get business done and well. 19 Thank you. MR. VANDERGRIFF: That's great. Thank you very 20 much. 21 And with that, we're on to item number 6 which 22 23 is our consent agenda. We can take that up as all of the 24 items on that agenda in one motion for approval.

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MR. RODRIGUEZ: I so move.

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1	MR. VANDERGRIFF: We have a motion for approval
2	by Board Member Rodriguez.
3	MR. BUTLER: Second.
4	MR. VANDERGRIFF: And a second by Board Member
5	Butler.
6	MR. CAMPBELL: Mr. Chairman?
7	MR. VANDERGRIFF: If we have any discussion,
8	definitely.
9	MR. CAMPBELL: Just one discussion real quick.
10	On the final applicants, "The department will not hire a
11	final applicant for a position that may involve driving
12	for the department."
13	MR. RODRIGUEZ: That's the rules.
14	MR. CAMPBELL: That's under rules?
15	MR. VANDERGRIFF: Yes. We're not there yet.
16	MR. CAMPBELL: I'm sorry, I apologize.
17	MR. VANDERGRIFF: That's all right. So all the
18	items under item 6 which goes from page 2 to page 10, near
19	the bottom of page 10 on your agenda, so those are the
20	items we're taking up. We have a motion and a second.
21	Any discussion?
22	(No response.)
23	MR. VANDERGRIFF: Seeing none, I'd appreciate
24	you raising your right hand in support of the motion.
25	(A show of hands.)

MR. VANDERGRIFF: Let the record reflect that 1 the motion carried unanimously by the members present, 2 eight to zero; Member Gillman is out of the room and did 3 not vote on this motion. 4 5 So with that, I would move to item number 7 on 6 the agenda which is the rules, and that, now, is where I 7 think you will want to ask questions here in a second. But with that, we're on 7.A which is the proposed rules 8 under the Employment Practices, Substance Abuse Program. 9 10 And I'm not sure who is presenting that. Ah, Mr. Bray is 11 coming up. MR. BRAY: Brett Bray, director of the Motor 12 Vehicles Division. 13 14 This item has been addressed to you by Jennifer 15 Saldano, an attorney with the department, so far each 16 time, and so by way of making more excuses, I'm just subbing in for her at the last minute because she has 17 experienced a family death and isn't available. 18 19 MR. RODRIGUEZ: I note from the record, Mr. Chairman, we have no comments on this? 20 21 MR. VANDERGRIFF: We have no comments, yes. This is being stood up as a proposed, assuming we approve 22 23 it, it will be sent out for public comment -- it will be 24 published.

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MR. BRAY: You wouldn't have comments yet

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1	because we haven't gone to publication.
2	MR. RODRIGUEZ: So this is to be proposed.
3	Move that we post, Mr. Chairman.
4	MR. VANDERGRIFF: We have a motion to post by
5	Member Rodriguez. Do we have a second?
6	MR. RUSH: Second.
7	MR. VANDERGRIFF: Second from Member Rush. Any
8	discussion?
9	(No response.)
10	MR. VANDERGRIFF: Seeing none, all those in
11	favor please raise your right hand. Excuse me, Mr. Bray,
12	you may have needed to make some point.
13	MR. BRAY: I'm good.
14	MS. JOHNSON: I tried to get my hand up. Is
15	this not the policy that we discussed previously? I
16	thought there was some discussion on the drug testing.
17	This is not?
18	MR. BRAY: [Speaking from audience; inaudible].
19	MS. JOHNSON: Okay, thank you.
20	MS. SECORD: This rule conforms with the legal
21	advice you have received in executive session.
22	MS. JOHNSON: Okay, thank you.
23	MR. VANDERGRIFF: So I'd ask you again just so
24	I'm clear, we had the motion and a second. All those in
25	favor please raise your right hand.

1 (A show of hands.)

MR. VANDERGRIFF: The motion carries unanimously. Again, let the record reflect that Member Gillman is not with us at the moment.

With that, we're on item 7.B which is adoption of rules under Title 43 of the Texas Administrative Code.

MS. DAVIO: For the record, my name is Rebecca Davio, director of the Vehicle Titles and Registration Division, and I would like to over for you the proposal of the adoption of a final rule, actually, several different chapters regarding the administrative operation of the Department of Motor Vehicles.

This rule was previously published on November 20 in the Texas Register, the comment period ended on December 21 and we received no comments. This rule covers the management structure, the provision of public information, sick leave, employee education and training, various and sundry different administrative operations of the department. And we did not receive any comments.

There is one change, the word "industry" was inadvertently left out when referring to the motor transportation industry. And we would move for your final adoption.

MR. RODRIGUEZ: I move we adopt with that recommendation, Mr. Chairman.

1	MR. VANDERGRIFF: We have a motion from Member
2	Rodriguez. Do we have a second?
3	MS. JOHNSON: Second.
4	MR. VANDERGRIFF: We have a second from Member
5	Johnson.
6	MS. DAVIO: We might need to modify the
7	motion I'm sorry, I wasn't very clear to say adopt
8	with the modification.
9	MR. RODRIGUEZ:
10	MS. JOHNSON: That's what I said, with the
11	recommendation to insert "industry" in there.
12	MS. DAVIO: Thank you very much.
13	MR. VANDERGRIFF: Do we have any discussion?
14	(No response.)
15	MR. VANDERGRIFF: Seeing none, I'd ask you to
16	raise your right hand in approval of the motion.
17	(A show of hands.)
18	MR. VANDERGRIFF: Mr. Gillman, we are on 7.B,
19	we are standing up the organizational rules of the agency.
20	We have unanimous approval of that motion.
21	The next item is 7.B.3 which is the Public
22	Information chapter, 207 excuse me 7.B.3, you've
23	covered that. I apologize. We're now on Chapter 215
24	which is Motor Vehicle Distribution. I do note on this
25	particular one that we will let Mr. Bray present them but

we do have five cards. As will be our practice, we do allow public comment here, and so we do have five people in the audience who wish to make public comment.

MR. RODRIGUEZ: This is?

MR. VANDERGRIFF: 215 is Motor Vehicle

Distribution, and I believe it is a yellow tab behind a blue tab and before an orange tab.

I will duly note that a couple of members have mentioned we might ought to numerically number these tabs in the future. Does everybody have it front of them?

I think Mr. Bray has also been joined by Ms. Cost as well.

MR. BRAY: Brett Bray, director of the Motor Vehicle Division.

This agenda item involves the adoption of Motor Vehicle Division operating rules proposed in November. In addition to transferring the rules from TxDOT to the DMV, the rules give effect to legislation passed during last session and propose other changes to promote efficiency and clarify policy. The November briefing was delivered rather quickly and I'd like to take a moment -- and that was done so that you could adjourn at a reasonable hour, but I'd like to take a moment and give you a concise refresher as well as discuss the comments that were received and our recommendations.

Chapter 215, in general, removes "director" or "board" and sometimes "division." It was changed to fulfill House Bill 3097. Our guide in doing so was prior rules when the Motor Vehicle Division was under the Texas Motor Vehicle Board. So where we had "Texas Motor Vehicle Board" before and then when it was abolished, they changed it to "director" that was the guide to change it back to the "Motor Vehicle Board," generally speaking. The director's role is still the administrative head of MVD.

In Subchapter A under the General Provisions,
215.2 Definitions redefines the division director to allow
delegation to staff. This has been a longstanding
practice and this just cleans it up some more. 215.5
Informal Opinions, again, a longstanding practice and this
makes it more clear that informal opinions by staff are
not binding on the board.

Subchapter B Adjudicative Practice and Procedure, 215.22 Prohibited Disclosures and Communications, this reinforces the ex parte prohibitions and outlines the cure process for the board in case you encounter an ex parte communication. 215.3 is the Filing of Documents and it clarifies the address for official filings of MVD is with MVD.

Moving on to Subchapter C Licenses Generally, there was a section that used to be called 8.88 under the

department's rules, it was the rule about the transition period for two-year license which I talked to you about earlier during my presentation, but the two-year license term transition has been fulfilled and there's no longer a need for the rule, so we're asking that this board not adopt a rule on it and just let it die a natural death.

Subchapter D Franchise Dealers, Manufacturers, et cetera. 215.104 changes to "franchise dealer license."

We changed franchise license rules to just be more effective and efficient and can go into more detail if you have questions. Under 105 which is the Protest Requirements, the statute was changed for relocations without a protest from one to two miles in radius, and rather than repeat language that's in the statute which would require a rule change any time the statute might change, we substituted generic language regarding standing.

Subchapter E is the General Distinguishing

Numbers. 215.137, the Security Requirement, this

clarifies which GDN holders must have a bond. It's used

retail auto and motorcycle, wholesale and mobility but not

franchise and not trailer dealers. The requirement is

unchanged from the original but other forms of surety no

longer are recognized as they are either violative of

federal law or they make the department the payee which is

not the intent of the statute.

215.139 Metal Plate Allocation, as before allocation of metal plates are restricted but there is a good cause exception and waivers are good for four years instead of three, and this is in recognition of the two-year license term and using even-numbered years.

215.141 Sanctions. Any person is subject to sanctions instead of just licensees and this is just consistent with the statutory language that's on the books. It's changed to clarify that it is lawful to charge a person that is not necessarily a licensee with a violation. And I'm reminded it's in 215.141 where we have a typo. Remember I told you that Ms. Cost is probably the most meticulous I've ever met and she can even find little bitty typos like the one where it should say -- within the rule it says 215.141(a)(22) and it should be 215.153, relating to the Specifications for All Temporary Tags. So in the end when I recommend approval that you adopt these rules, it will be with that caveat or exception that we change that one reference to 215.153.

MR. RODRIGUEZ: Two point five?

MR. BRAY: 215.153.

MR. RODRIGUEZ: And the recommendation is what language, to modify what?

MS. COST: For the record, Molly Cost. The

rule that has the typo in it is actually 215.141(a)(22).

Right now it references another rule, the reference is to
215.138, it should be 215.153.

MR. BRAY: It's pretty minor.

MR. RODRIGUEZ: So it's showing 215.138 and you're saying that should be 215.1 --

MS. COST: Five three.

MR. RODRIGUEZ: Five three.

MS. COST: Yes, sir.

MR. BRAY: Moving on, 215.144 are Records, and specifically Records Retention. We are recommending retention requirement -- we previously recommended a retention requirement of 24 months with -- excuse me -- the retention requirement used to be 24 months with 13 onsite, we proposed retention of records be changed to 48 months with 24 months onsite, and we did so to conform with the Office of Consumer Credit Commission and the Comptroller's Office. The Texas Auto Dealers Association asked that onsite retention be 12 months and we recommend keeping the overall 48-month retention requirement which TADA did not oppose, but allow dealers to only keep 13 months onsite -- so in other words, don't change that part from the way it was before. As before, older records must still be stored within the same county.

MR. RODRIGUEZ: So we're going to make that

change now at the adoption?

MR. BRAY: Yes, sir, it's recommended in your packet.

Records Requests, still under the same rule 144, allow for electronic, like email, requests and responses. The Auto Dealers Association asked that dealers be allowed to verify that the request comes from the division prior to submitting records to protect consumer information. We had no objection and recommend adding a sentence to clarify that dealers can do that, and it's at the end of that proposal now.

The records rule also implements Senate Bill 1235 which created a different time requirement for dealers to apply for title and registration if the transaction is a seller-financed sale. Seller-financed transactions must be reported within 45 days, all others remain at the 20-working-day standard in the Transportation Code.

215.147 Export Sales. A dealer will not really need to be concerned about whether the buyer is a foreign dealer, an agent of such or what-have-you, all the dealer needs to know for our purposes is that the vehicle is being exported, all titles of exported vehicles will be stamped "Export." And thank you, Member Johnson, for helping me to create the script in that regard.

vehicle.

throughout the statute, it makes buyer's tags good for 60 days, it eliminates supplemental tags, and allows dealers to place e-tags on loaner vehicles while consumers' vehicles are in the shop. By this process, it also eliminates emergency tags because the choices were confusing and we go to just one type of internet-downed tag, if you will. It broadens the use of the remaining tag and it requires dealers to secure the tag to the

and Prohibitions. The Texas Auto Dealers Association said that dealers should not be responsible for placement of tags after it leaves the lot. We agree and we have no objection to deleting that last phrase in the proposed rule "at all times," so the dealer would be responsible for placement of the tag at the time of sale only. The Auto Dealers Association also wants tags to be in the rear window. We recommend that you decline this request. Law enforcement needs outweigh what dealer convenience there might be to allowing that option.

215.153 which involves Specifications of
Temporary Tags. The Auto Dealers Association wants specs
changed to allow standard 12-inch products. We have no
objection, it might save dealers money. The auto dealers

also want tags in the bag requirement eliminated. We're talking about the little plastic bag that you see around e-tags. Instead, they would like to require dealers to use plastic durable materials or 65-pound cover stock. We don't believe that the change is necessary. Bags are only required if a material is not durable. If tags printed on 65-pound cover stock are durable and weather-resistant, then they can be used without a plastic bag. But we don't want to outlaw the use of thinner materials covered by plastic bags if dealers find this to be a more cost-effective way to do business.

Subchapter I are the SOAH Rules, and specifically 215.308. The changes proposed streamline the default process in contested cases to limit defaults to non-appearance at hearings.

I've gone through these very fast and I'll be glad to try to answer your questions on them, but we recommend that you adopt the rules as amended, and I'm happy to try and answer your questions.

MR. WALKER: Do we have an allowance, we're going to increase the amount of time that a dealer has to maintain records from 12 months and 24 months to 24 and to 48 because of the consumer -- you hesitated.

MR. BRAY: Thirteen and 48.

MR. WALKER: Thirteen and 48.

MR. BRAY: We published what you said, 24 and 1 48. Based on comments submitted by the industry, we're 2 retracting, if you will, back to 13 and 48. The 48 part 3 is to be consistent with the other agencies that are 4 5 regulating the industry and they all require 48 months. 6 MR. WALKER: Do we allow for electronic copy of 7 all those records now? MR. BRAY: Yes. 8 9 MR. WALKER: So no hard copies are required. MR. BRAY: Right. 10 MR. VANDERGRIFF: Any further questions? 11 want to note that we have five members of the public who 12 wish to speak to us in public comment before we take any 13 14 action, so I won't ask for a motion at this point but I 15 will open up the floor to the public, and I'll call your name as the cards that I've got. David Atkins from the 16 17 Department of Public Safety. 18 SGT. ATKINS: Howdy. My name is David Atkins, 19 I'm a sergeant with the Texas Department of Public Safety, Intelligence and Counter-Terrorism Division, and I was 20 asked to speak here to express our opposition to any rule 21 that would allow dealers to place temporary tags or 22 23 buyer's tags in the rear window. It's a simple officer 24 safety issue.

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As someone who was recently on the road, I can

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tell you tags in the rear windows simply do not work. You can't see them, you don't know what vehicle it belonged to, and without any type of identifying information on a vehicle, it definitely puts any officer at risk that's on the road, not only from glare, dirt, rain, anything else in the vehicle that could be obstructing the view. Pickup trucks where they put the paper tag in the cab, you're talking about having to see past a whole bed to read that paper plate. It just creates a large problem for us.

Since the new tags have come out and people have been putting them on the bumper, the number of stops that have been made that have produced illegal tags, counterfeit tags have increased which indicates that people aren't suddenly creating more counterfeit tags, they were probably there all along but we just couldn't read them, couldn't see them, didn't detect them because in the past they had been allowed to be in the rear window to a certain extent. So we're definitely going after these people and if they ere allowed to go back to the rear window, we'd probably not detect them at a rate we are right now.

But of course, the overriding issue is officer safety and I would ask that you take that into consideration when you decide on this. Thank you.

MR. VANDERGRIFF: Thank you.

Any questions of Officer Atkins?
(No response.)

MR. VANDERGRIFF: Thank you very much.

Our next speaker is Tom Gaylor.

MR. GAYLOR: Mr. Chairman and board members, thank you for this opportunity. My name is Tom Gaylor, I'm with the Texas Municipal Police Association and I'm also a deputy sheriff in Colorado County between here and Houston, so we spend a lot of time on 71 and Interstate 10, and I'm here to talk about the dealer's tags or the temporary tags in the windows.

One of the things, the officer safety thing is so important, but the sergeant from DPS did a great job of explaining that, I won't overview that as well, but I would like to talk to you a little bit about the rapid visual recognition that a car is properly tagged. When an officer is driving down the road or sees cars going by on Interstate 10, sometimes at 70 or more miles per hour, one of the first things the officer's eyes are drawn to is the license plate area to see if it's properly tagged. If these tags were permitted to be placed in the back window, I think it would create a situation where officers may be desensitized to a blank spot in the back of that vehicle and not think, well, maybe that's some problem there.

The second thing is I've seen lots of times,

with the old tags in particular and with the new serialized tags, that they don't take off the old license plate so they'll tape the paper tag or the temporary tag to the back window and they won't take off the old license plate that's no longer the correct registration for the vehicle. It doesn't hold the information that we need for our officer safety purposes and for our criminal investigations, traffic investigations, those types of things.

TMPA has worked very hard to get these serialized license plates. We've wanted these searchable plates for a long time because we do believe it's an officer safety issue, and we thank you guys for finally getting those things for us and we can run those in our computer databases so we know who we're dealing with, we know if there's a problem with that car before we ever approach the driver. We do appreciate that.

And just to let you know, I represent about 16,000 Texas peace officers from all types of agencies all over the State of Texas, and just a quick straw poll when we found out this meeting was going to happen, I had unanimous support to keep them on the back of the car and not in the back window from my organization.

I'll be happy to answer any questions.

MR. VANDERGRIFF: Any members have any

questions? Don't see any. Thank you very much. 1 2 MR. GAYLOR: Thank you very much. MR. VANDERGRIFF: Our next speaker is Raul 3 Vargas. 4 5 MALE SPEAKER IN AUDIENCE: I believe the sergeant that spoke before was sitting in. 6 7 MR. VANDERGRIFF: Okay, super. And then we have E.C. Sherman. 8 MR. SHERMAN: My name is E.C. Sherman, for the 9 I'm the executive director of the Texas Police 10 Association. Prior to that, I spent 34 years with the 11 Texas Department of Public Safety in the Highway Patrol 12 Division. 13 14 I would join the other two most recent 15 witnesses in supporting the idea that the buyer tag or 16 dealer tag should be displayed in the license plate-holder 17 on the rear bumper, and for the same reasons that they 18 talked about, for law enforcement purposes, also for 19 safety purposes. You might imagine that in this day and time 20 with the dashboard cameras on patrol vehicles, they drive 21 up behind a car and if something goes bad at that scene, 22 23 the only way that the people have to try to track that individual that was in that car -- say the officer was 24 assaulted or killed, God forbid -- is from that license 25

That's why it's so important now that that dealer plate. tag or buyer's tag tracks that individual that bought it. And I've experienced where all we had to go by was the video from that dashboard camera, the description and the license plate number on that car to try to find someone. So if it's in the rear window for reasons that Sergeant Atkins talked about a while ago, visibility, glare, dust, dirt, whatever might interfere with the

Sergeant Atkins talked about a while ago, visibility, glare, dust, dirt, whatever might interfere with the ability to read that tag, not only from the officer's perspective but in that video that's on the dashboard. So I personally would be opposed to allowing that important method of vehicle identification and driver identification to be put in the back window because of the visibility implications that might be experienced in that.

MR. VANDERGRIFF: Any questions from any of the board members?

(No response.)

MR. VANDERGRIFF: Thank you very much.

And the next and last announced speaker is Karen Phillips.

MS. PHILLIPS: Good afternoon. Karen Phillips with the Texas Automobile Dealers Association.

First of all, I want to thank Brett and especially Lee Burnett who called me after I submitted my comments. I know that they had had a meeting and we

discussed the accommodations and such that they were willing to work with us on. So I very much appreciate the suggestions and their consideration of those suggestions.

So because they've already agreed to amend the proposal in many ways that we requested. Once again, I thank them and I appreciate it, and so my comments are going to be much shorter than they otherwise would have been.

I did bring a couple of the plasticized-type tags that are 12 inches that might be capable of going through a laser printer that we're looking at that wouldn't require the baggie. This is that plasticized material if anybody is interested in having a better look at that.

I have to, once again, try to get the rear window. I understand that I might as well cry uncle on that issue because I know that law enforcement and the safety of law enforcement is primary, and so I'm not going to belabor that issue, but letting you know that for many decades that tag was capable of being put in the rear window and it, I think, served law enforcement okay. It certainly served the motoring public because consumers very often prefer to have that tag in the rear window, as well as the dealer body. But like I say, I'm not going to belabor that.

And I also understand that there needs to be some method to allow for a piece of paper that if it has to be placed on the license plate-holder, it needs to have some means of being able to stay there for now 60 days, and so I assume that the baggie is the preferable methodology. At least now we have another means of hopefully getting a better product in that license plate-holder. Once again, I'm just going to try and let you know that if we had the rear window, we wouldn't need the baggie.

So anyway, I'm happy to answer any questions and I appreciate your time.

MR. GILLMAN: Karen, you're telling us that everything that Brett said that the automobile dealers are going along with it.

MS. PHILLIPS: That's right. I haven't seen the exact language that he has indicated he'd offer up with respect of a dealer being able to verify that the record request is coming from the agency, but because there in understanding of our concern, and Lee has told me that they're looking at language -- like I say, I haven't seen that exact language -- but with the understanding that that is going to be something that a licensee can do verification on that record request.

MR. GILLMAN: Of course, I don't like the

1	baggie either. Okay?
2	MS. PHILLIPS: I know, none of our members like
3	the baggie.
4	MR. GILLMAN: But by the same token, I will
5	admit I don't like the rear window deal either, but that's
6	just me speaking.
7	Is there anyone from law enforcement still
8	here? Can I address him?
9	MR. VANDERGRIFF: Sure, absolutely.
10	MR. GILLMAN: Is the so-called baggie, do you
11	like that deal or don't like that deal?
12	MR. GAYLOR: Mr. Chairman, Tom Gaylor, again,
13	with the Texas Municipal Police Association.
14	The baggie is, I think, probably the least best
15	opportunity there to keep that tag effective for, I guess,
16	now up to 60 days. Frankly, we would rather see this type
17	of plasticized material.
18	MR. GILLMAN: That's what I was going to get
19	around to. Now, are we creating a huge expense here?
20	MS. PHILLIPS: Well, I did get an estimate and
21	it will be more expensive than, obviously, a piece of
22	paper, and allowing
23	MR. GILLMAN: Percentage-wise.
24	MS. PHILLIPS: allowing the dealer to go to
25	the 12 inches, it's probably going to be about double.

And there is a concern about the capability of it going 1 2 through a laser printer. I did have this to go through a laser printer and it went through there, we just don't 3 know how well your laser printers are going to hold up 4 5 with this type of paper. MR. GILLMAN: Could we approve all this with 6 7 just a little further study on the plastic or the baggie? MR. RUSH: I'm like you, I don't like the 8 9 baggie, I've seen too many of them already that look like nothing. 10 11 MR. VANDERGRIFF: Mr. Bray, would you like to address this? 12 MR. BRAY: Mr. Gillman --13 14 MR. GILLMAN: Because all I'm looking for is 15 what's the best identification and just doesn't triple the 16 cost or something. I understand, and just to be clear, 17 MR. BRAY: 18 the rule proposal before you allows everything. It allows 19 all these plasticized products without a baggie --MR. GILLMAN: But if you don't make it a rule, 20 Mr. Bray, the competitor down the street is going to be 21 putting a baggie on a cheap piece of paper, and I mean, 22 23 it's not a lot but times several thousand cars, it's a

it easier for these police officers to be able to see that

difference. And what we'd like to do is, of course, make

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tag. I'd just like to study it just a little bit and see 1 2 what's going on. MR. BRAY: 3 Okay. MR. GILLMAN: Okay. 4 5 MR. BRAY: All I can say to you is that --MR. VANDERGRIFF: Can you finish the thought 6 7 you were saying before? I think you were saying it includes that and. 8 MR. BRAY: It includes everything you can think 9 10 of that's a durable product that can withstand weather can be used by a dealer, as well as the thinnest paper inside 11 a baggie, and it becomes -- just like I told you during my 12 presentation before, we're not really wanting to be 13 14 oppressive in regulation -- it becomes the dealer's choice, whatever works best for them and is most cost-15 16 effective for them and can go through their printer. 17 MR. GILLMAN: And thank you, but the problem is I think we, as a dealer community and dealer body, want to 18 19 try and help the police be able to more readily identify these license plates, and I'm just asking whether the 20 baggie is better or the plastic is better -- I think the 21 plastic is better -- but I'd like to study it just a 22 23 little bit to find out what the cost is. MR. BRAY: The cost is going to be more 24

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expensive for plastic, but that's a competitive market

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issue.

MR. GILLMAN: But I'm saying if everybody has to do it, it's okay. But if you've got one guy putting a baggie on and the police can't see it and the other guys are putting on a plastic and the police can see it, the police are going to say I sure hope I stop a car sold by Gillman.

MR. BRAY: I don't want to be argumentative, but let me just say that regular old notebook paper in a plastic bag has sufficed for the Arizona DPS for the last five-six years now, and in Montana and in Virginia.

MR. GILLMAN: So has the rear window deal too but it wasn't a very good idea. Anyway, whatever.

MR. CAMPBELL: Mr. Gillman, could I suggest maybe, one thing we've done in the past is those thousands of plates that are the temporary tags that we bought that we can't use anymore, we've started taping it to it and cover it completely with tape. Another idea maybe is lamination. If you have a laminator that you can laminate those, it protects it for the 60 days that you need.

MR. GILLMAN: There's a lot of things you can do, I'm just saying if there was some way we could make it uniform. That's what I'm getting around to.

MR. RUSH: I've seen a number of these things in the last few months, these plastic things or the

baggies, they get dirty, they get where you can't read them. And I don't even sell cars, we sell trucks, big trucks, but I've seen many of them running down the road that you can't see what they say.

MR. CAMPBELL: I totally oppose the baggie, by the way, just as a comment. And if I could further comment regarding the license plates in the rear window, now that it's required that you take the plate off, it's not a burden to put the plate in the plate-holder, and I agree with the safety issues, I want the police officers to be able to stop them, if somebody steals one of the cars or something, I kind of like that. So I like it, actually, in the plate-holder versus the back window.

MR. RUSH: Well, let me ask you a question. What are you talking about, \$3 or \$4 to make one, at the most?

MR. GILLMAN: I just wish, if it's a good idea, it ought to be standard.

MR. RUSH: I agree 100 percent.

MR. VANDERGRIFF: What I would suggest is -- I think we need to limit the questions to the people that we have before us, and then after that, if we want to have a motion and perhaps do something a little bit different, then we can have discussion on that. But do you have any further questions of the witnesses and Mr. Bray?

MS. PHILLIPS: Thank you.

MR. VANDERGRIFF: Thank you very much, appreciate it.

We need to hold these thoughts because we've got, I guess, the last chapter to bring up which is Chapter 218, the Motor Carrier.

MS. FALLIN: Good afternoon. My name is Carol Fallin, I'm the Motor Carrier Operations manager for Motor Carrier Division.

Chapter 218 was proposed to implement the provisions of House Bill 3097, 81st Legislature, Regular Session 2009, which created the Department of Motor Vehicles. The rules adopt many aspects of the existing practices and procedures of the Motor Carrier Division as it was under the Texas Department of Transportation.

The rules were published in the November 20, 2009 edition of the Texas Register and we had two comments. Comments were received from Texas Surplus Lines Association of Texas, Inc. and Neighbors Well Services Company. Changes have been made in response to the comments. Section 218.16 relating to insurance requirements was proposed with the same wording as TxDOT's version in 18.16. This section provides the requirements for the automobile, cargo and workers' compensation of accidental insurance.

A comment was received from the Texas Surplus Lines Association of Texas, Inc. regarding acceptable filings. The commenter suggested double negatives used in the wording of Subsection (d)(4) be revised to clarify that although a surplus lines insurer is not an insurance company licensed by the State of Texas, it may issue a certificate of insurance if it meets the requirements of the Texas Department of Insurance. A sentence has been moved to clarify that the required form applies to both insurance companies licensed and authorized to do business in the State of Texas and surplus lines insurers that meet the requirements of the Department of Insurance.

A change was also made to 218.32 relating to motor carrier records. The purpose of this section is to clarify the location where records may be maintained and provide for the availability of the records. A comment was received from Neighbors Well Services Company requesting clarification of Subsection (d) of this section as it relates to the term "principal office." Subsection (d) of this section has been changed to replace "principal office" with "principal place of business" to correlate with the existing definition of "principal place of business" in 218.2.

The commenter asked whether written permission to maintain records was needed for each regional office or

driver work-reporting location or whether a blank authorization could be used. The word "specific" has been added to Subsection (d)(1) and (d)(2) to clarify that the location must be named. Otherwise, the department would not know which locations to inspect.

The commenter also indicated that Subsection (d)(3) was not clear as to whether records could be inspected only at approved locations. Subsection (d) has been changed to clarify that the department may inspect records that are not maintained in compliance with the approved locations. The ability to inspect at non-compliant locations enables the department to bring these locations into compliance.

The department made one last change, this change is to Section 218.15 relating to payment of fees. The department has changed this section to eliminate references to escrow accounts, as such accounts are no longer accepted by the department. The department has notified all customers utilizing these accounts of the change. These accounts are complicated to establish for the customers and their purpose can be achieved more easily by electronic funds transfers.

I recommend that Chapter 218 be adopted with these changes.

MR. VANDERGRIFF: Any questions of Carol?

1 (No response.) MR. VANDERGRIFF: Thank you very much. We have 2 before us a number of rules under Adoption of Rules, Title 3 43 of the Texas Administrative Code, we've had public 4 5 comment on this, we have eight different chapters that we 6 have before us. We can take those up, I believe, in one 7 motion for approval. But I know that you may have some amendments, potentially, to offer to any of this, so I 8 will open the floor up for a motion. 9 10 MR. RUSH: I make a motion. MR. VANDERGRIFF: We have a motion for approval 11 12 as presented. 13 MR. RUSH: As presented. 14 MR. BUTLER: Second. 15 MR. VANDERGRIFF: A second by Member Butler. MR. CAMPBELL: Discussion. 16 17 MR. VANDERGRIFF: Please. 18 MR. CAMPBELL: And we're talking in terms of 19 the tags also in this category? MR. VANDERGRIFF: Yes, anything is open on this 20 discussion. 21 MR. CAMPBELL: I would like to ask that you 22 23 amend the motion to require that the tags be placed in the

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MR. RUSH: That's part of the motion.

tag spot, not on the back window.

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1	MR. CAMPBELL: Okay, that is part of that
2	motion?
3	MR. RUSH: Yes, part of the procedures.
4	MR. CAMPBELL: Okay.
5	MR. VANDERGRIFF: But it does not
6	address 215.153 which was the plastic bag issue.
7	MR. GILLMAN: Right, doesn't address that. I
8	just want to do what's best for these guys out there
9	riding around on the street. If a baggie is easily
10	readable and working great and everybody is happy with it,
11	that's fine.
12	MR. VANDERGRIFF: The motion that you have
13	presented has the ability to use any product.
14	MR. RUSH: Sorry, I didn't realize this.
15	MR. VANDERGRIFF: You can accept an amendment
16	to your motion, a friendly amendment.
17	MR. RUSH: I'll accept an amendment because I
18	think that needs to be done.
19	MR. VANDERGRIFF: No one has offered it yet,
20	but you may be going to do that.
21	MR. GILLMAN: If we approve this, can we amend
22	it later?
23	MR. VANDERGRIFF: Sure, you could always go
24	back and look at this. We'd have to republish it and
25	notice it.

1	MR. RUSH: Can we separate it out of this?
2	MS. SECORD: You can amend your motion to pull
3	it out.
4	MR. RUSH: Well, let me have a little
5	discussion about that for a minute before or am I too
6	far to do that?
7	MR. VANDERGRIFF: No, absolutely, we're in
8	discussion.
9	MR. RUSH: I personally think that they need to
10	come up with a standard, some sort of poly, whatever it
11	is, and we go see what we can get priced for us and look
12	at it at the next board meeting, that will fit where it's
13	supposed to fit, 12 inches, whatever
14	MR. GILLMAN: And go through the printers.
15	MR. RUSH: And go to somebody and let's get
16	some ideas printed and see what it's going to cost. I
17	think a standard one is the best thing in the world to do.
18	Now, you may disagree with me.
19	MR. GILLMAN: And the cost, really, as you
20	stated a minute ago, the cost is really not it's not
21	the cost, it's the standardization and doing it right.
22	Because if you leave it up just to everybody do whatever
23	they want within these guidelines, it's not going to work.
24	MR. RUSH: What do you think, Jim?
25	MR. CAMPBELL: Well, I think you need some

variance in your standards. I'm opposed to the baggie and I think they changed -- originally it came out through statute requiring the baggie and they've changed that, and I think you need some variance in your standards because I like the lamination better than other things possibly or if you tape the whole thing, whatever, but I do oppose the baggies. And I don't want to impose additional costs to dealers during the economy when their sales are down anyway, so that bothers me that we're going to incur additional costs.

And I think by Brett's -- the way he approached this where you kind of have the latitude to use whatever you want, I think people will use what works best and I don't think the baggies work at all, in my opinion, so they end up evolving to a standard, but I don't think it needs to be imposed to them by a government agency, if possible.

MR. GILLMAN: Chief?

MR. RODRIGUEZ: My suggestion is that we go forward as originally proposed today and that if we want to create a standard here, then we propose a new rule and let it be posted and let a hearing be held on it as necessary, and that way we can hear everybody out.

MR. GILLMAN: It gives us time to figure out what's the right thing to do, and I agree with that.

MR. CAMPBELL: I don't have a problem with 1 2 that. MR. RODRIGUEZ: But for now, I believe we ought 3 to just go forward with the rules as recommended by staff 4 5 and move them -- it's not been amended yet, right? 6 MR. VANDERGRIFF: No, it's not been amended. 7 Mr. Butler? MR. BUTLER: Yes. When we establish the 8 9 standard, that's when you start really heading the cost 10 into it. It will get a lot more expensive if we have a 11 standard. MR. GILLMAN: Well, it's according to what the 12 standard is. 13 14 MR. BUTLER: But it adds so much expense. 15 MR. GILLMAN: And that's the reason -- while 16 I'm opposed to basically what we're doing here, that's why 17 I wanted more time to study it, to look at it, to figure it out. But if we can amend it later, like Brett says, 18 19 what we've been doing for 10-15 years has been working fairly well, and the baggies will probably be all right, 20 but I don't think that is the best solution, and I'd just 21 like to look at it a little further. Later on if we have 22 23 the right to amend it, I'm happy. MR. VANDERGRIFF: I think our Rules Committee, 24 25 of which you are a member, can easily study this and bring

it back to the board for different consideration if you 1 would so recommend 2 I would recommend. MR. GILLMAN: 3 MS. MARZETT: I just had a question. 4 If we 5 agree to pull this out of the amendment and discuss it later, pul this section --6 7 MR. GILLMAN: No, we're going to pas it now, full well knowing we can. 8 MS. MARZETT: I was going to say because even 9 absent making a decision, what are they doing, they're 10 doing what we haven't agreed to do anyway so it's the same 11 difference. Because there's nothing being mandated right 12 now; until we make a decision, they're going to continue 13 14 to do what they're doing which everybody has a different, 15 you know, so it's the same difference. 16 MR. VANDERGRIFF: So we'd be, as has been 17 motioned and has been discussed by Mr. Rodriguez in terms of we pass the rule as it is now and bring it back up for 18 future discussion. 19 MR. GILLMAN: Agree. Let's take it to a vote. 20 MR. RODRIGUEZ: I just wanted to say one thing. 21 One is what's being done right now is operationally done 22 23 under a TxDOT rule which is one of the reasons we're doing this is to make these now DMV rules, so it's necessary to 24 25 do this, number one. Number two, the more important thing

to address here today is the fact that we're keeping that at the license plate point, that's more important than everything else. And one thing that wasn't mentioned here today is the fact that we are more and more into license-plate readers around the state, and license-plate readers are directionalized at a particular area of a particular vehicle. So it's important that that standard be kept for all kinds of reasons.

MR. VANDERGRIFF: That's an excellent point.

MR. GILLMAN: Just for the fun of it, find out -- not for today's purposes but later -- see if you can find out whether they can read those baggie jobs or not.

MR. RODRIGUEZ: And whatever the reading may be, it may be invalid anyway, but my point is if we start moving the license plate around then you throw off the license-plate readers.

MR. VANDERGRIFF: That was on the rear window issue.

MR. GILLMAN: I'm in total agreement with that.

MR. VANDERGRIFF: All right, thank you. We have ended discussion, and so we have a motion and a second to approve the rules as presented, with the amendments that staff has noted to us, so I will call for your vote, please. All those in favor please raise your

1	right hand.
2	(A show of hands.)
3	MR. VANDERGRIFF: The motion carries
4	unanimously. Thank you very much.
5	And with that, if no members have any further
6	items of business, I'd be pleased to entertain a motion
7	for adjournment.
8	MR. BUTLER: So moved.
9	MR. CAMPBELL: Second.
10	MR. VANDERGRIFF: So moved by Mr. Butler and
11	seconded by Mr. Campbell. Thank you very much.
12	(Whereupon, at 3:19 p.m., the meeting was
13	concluded.)

CERTIFICATE 1 2 Texas Department of Motor Vehicles Board 3 MEETING OF: Austin, Texas 4 LOCATION: 5 DATE: January 14, 2010 6 I do hereby certify that the foregoing pages, numbers 1 through 155, inclusive, are the true, accurate, 7 and complete transcript prepared from the verbal recording 8 9 made by electronic recording by Nancy King before the 10 Texas Department of Transportation. 11 12 13 14 15 16

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