

Testimony for Acting Registrar Jamey Tesler

I. Introduction, Overview & Acknowledgements

Thank you Secretary Pollack.

Chairman Straus, Chairman Boncore, Vice Chairs Lesser and Madero, and Honorable Members of the Committee. Good morning.

My name is Jamey Tesler and I was appointed Acting Registrar at the Registry of Motor Vehicles (RMV) by Secretary Pollack on June 25th of this year.

First, I want acknowledge that the failure of RMV processes designed to protect the public in this incident was unacceptable.

I also want to express my personal regret and the regret of the RMV staff as a whole for the tragic loss of 7 precious lives which has led to our appearance here today.

I cannot comprehend the massive toll this loss is taking on the families and friends of those individuals, many of whom served our country admirably.

We recognize that the steps we are taking to address those failures do not make up for past shortcomings. We do hope that today we can provide some assurance that the RMV is committed to understanding what went wrong and working to the best of its ability with the support of others to fix them.

Following my appointment, at direction of the Secretary, we began an in-depth review of the RMV's state-to-state data sharing processes.

My testimony will summarize what I will stress are the preliminary findings of this review and the actions we have taken to date, as well as the next steps and ongoing work we have identified as necessary to ensuring the RMV meets its responsibility to the best of its ability to enforce the laws governing the safe operation of motor vehicles.

My testimony will not, however, cover events occurring prior to my start date, as those are the subject of the Grant Thornton forensic review, which we are committed to making available to the public and this Committee, when complete.

I'd be remiss to not recognize that the work completed since my appointment could not have been done without the hard work and resilience the Registry's staff brings to the organization each day, including working through the nights and weekends over the course of several weeks to address the issues at hand.

While these lapses were unacceptable and are being addressed, members of this team stepped up to get the immediate job done and have shown their resolve to reset our priorities and make the necessary improvements to protect the health and safety of the Commonwealth's residents and those on our roads.

II. National Driver Registry (NDR)

Mr. Zhukovskyy, like all commercial license holders, also has a regular or Class D or passenger drivers' license.

When I accepted the appointment as Acting Registrar I was aware of the issue with the CDL data sharing system, CDLIS.

Unfortunately, as was quickly discovered, there are also serious problems with how out of state notifications are handled for drivers who have regular licenses.

First, I'd like to briefly explain the National Driver Registry (NDR) for the Committee as it relates to non-commercial license holders. As I continue in my testimony, we will return to the NDR and its uses.

Maintained under the National Highway Traffic Safety Administration, NDR maintains the Problem Driver Pointer System (PDPS) database, and which as described by NDR, contains:

information on individuals whose privilege to operate a motor vehicle has been revoked, suspended, cancelled or denied or who have been convicted of serious traffic related offenses. Based on information received as a result of an NDR search, PDPS will "point" the State of Inquiry (SOI) to the State of Record (SOR), where an individual's driver status and history information is maintained."

Further:

"[A]nytime a person applies for a driver's license or the renewal of an existing license, the State driver licensing officials search PDPS to see if the license or privilege to drive a motor vehicle has been withdrawn by any state."

So when a Massachusetts resident applies for or renews their drivers' license every 5 years, the "pointer system" is checked and no license is issued if outstanding issues from other states remain.

III. Suspensions

I'd also like to briefly provide context as to what we know of the universe of drivers in Massachusetts. There are approximately 5.2 million active licensed drivers, of which approximately 110,000 also hold a CDL.

In any given year, roughly 230,000 suspensions are issued for matters ranging from non-payment to serious driving offenses such as operating under the influence (OUI) or motor vehicle homicide.

It is important to note that a single driver may receive several suspensions over time. For example, there were 234,612 suspensions issued in Fiscal Year 2019 involving the suspension of 144,301 unique drivers.

Over half of the suspensions issued are for civil infractions, non-payment and administrative issues.

For example, in May of this year, 36,076 suspension actions were issued, 11,814 of which were for non-payment default, 12,810 for surchargeable events, 537 "immediate threat" reports, 734 chemical test refusals and 2,221 OUI suspensions.

The vast majority of these suspensions are triggered by matters that occurred within Massachusetts.

Every business day, hundreds of Massachusetts licenses are suspended by the RMV following procedures designed to ensure that dangerous drivers are not allowed to drive, that their status and actions are reflected in the NDR, and that those whose license are suspended are provided appropriate opportunities to have their side of the matter considered.

IV. Non-CDL Out of State Notifications (Incoming Backlog)

With this background, we can turn back to the issue of how the RMV processes incoming out-of-state notifications received from other states with respect to non-commercial licenses.

The RMV receives numerous volumes of notices each day by mail, some of which address issues that should trigger immediate suspensions, and others which involve less critical matters such as non-payment or other administrative issues.

The responsibility for processing these non-CDL notifications has changed units over the years, and while our preliminary review has pieced together some of this timeline, the full understanding will fall under the scope of Grant Thornton's forensic review, which we are committed to making available to the public and this Committee when complete.

But what we do know is that in approximately March of 2018, along with the RMV's switch from the antiquated ALARS system, to ATLAS, these incoming, out-of-state notifications, ceased being processed and were sorted into mail bins organized by month of arrival, and stored at the RMV's Quincy Headquarters.

And on my first day at the Registry, on June 25, we identified fifty-three (53) such bins containing tens of thousands of unprocessed notices dating back to March 2018 in a document storage room, and five (5) additional boxes days later.

Triggered by this discovery, the RMV conducted a search of its storage archives and facilities to determine whether other unprocessed notifications existed.

This search uncovered seventy-two (72) archived boxes of out of state notices dating as far back as 2011 for which it could not be determined that all had been processed.

To address these two universes swiftly, teams of lawyers, auditors and RMV and Merit Rating Board staff examined, sorted and acted on thousands of documents through a 3-step process:

Step One – Triage: A team that sorted and prioritized out-of-state violation notices containing certain “codes” that could trigger immediate suspension actions and indicate the highest likelihood of dangerousness for serious offenses involving alcohol or operating under the influence (OUI).

Step Two – Look Up: A team that individually looked up triaged drivers' records in the NDR's “pointer system” to ascertain their current eligibility for licensure and determine whether their driver records were up to date with the noted offense(s) and its impact on licensure status.

Step Three – Suspension: If the look up determined that a suspension was appropriate, a separate team would take that action against the driver immediately. Suspension notices to drivers were generated and priority-mailed, but would also be made available on a drivers' NDR record immediately in the event a driver were to be pulled over by law enforcement.

This process performed on the high-priority codes pulled from the identified boxes of unprocessed out of state notifications resulted in 2,039 suspension actions taken against 1,607 unique drivers.

A new process was established and implemented for the same-day review of incoming out-of-state paper violation notifications, with a goal to process all suspensions required by the paper notifications the day they are received or within one business day thereafter.

A dashboard is being established to ensure that RMV managers have the information available in real time to ensure this new process is being followed.

As a point of context, the RMV has reviewed over 2,275 pieces of incoming mail containing out-of-state notifications since July 1st, taking actions that will result in 221 suspensions of Massachusetts drivers.

This is a small fraction of total suspensions undertaken by the RMV during that time. However, it is critical for the safety of those using the roads in Massachusetts and beyond that we suspend the drivers' license of every individual whose actions in other states constitute grounds for suspension.

We are committed to ensuring that, going forward, the RMV keeps up with the daily volume of notifications arriving from other states -- this responsibility will be assumed by a new Out of State (OOS) Notifications Processing Unit under the Registrar.

As this team is staffed up, we remain committed to going back through and updating drivers' records with the additional offenses that were not deemed high-priority on the initial triage.

V. NDR Batch Processing

Out of an abundance of caution and to ensure our records are up to date, we in parallel initiated with the American Association of Motor Vehicles Administrators, or AAMVA, a comprehensive review of all 5.2 million Massachusetts licensure records against the NDR's "pointer system" to ensure that state records accurately reflect all incidents or suspensions taken by other states in that system and that any needed actions affecting licensure status are taken expeditiously, rather than waiting until a driver applies for re-licensure.

I would emphasize that in our conversations with AAMVA and other states, we believe this process to be both innovative and unprecedented.

At this point, we have completed the first part of the data exchange with the National Driver Registry.

The process for returning results will take several iterations and additional time given the need to validate, process and review such a large dataset and further reconcile driver records with the NDR.

While this process will take at least several more weeks, we can be confident when it is complete that the drivers' records of Massachusetts license holders reflect all the serious offenses they should from other states, and we can begin an exclusive focus on ensuring we are refining and implementing processes so there is never again a problem keeping these important records up to date.

VI. Non-CDL Out of State Notifications (Outgoing)

This review ultimately led us to analyzing the question of how the RMV should notify other states when Massachusetts takes action against a driver record, and talking with partners like AAMVA to better understand best practices for such notifications.

Historically, it appears as though the RMV has achieved information sharing of this regard, in two ways:

1. Using CDLIS to comply with federal notification requirements for violations and suspensions involving CDL holders.
2. Relying on other states to use the NDR's "pointer system" to determine whether Massachusetts has denied, suspended or revoked a license of a non-CDL license holder.

There was no evidence that the RMV has, at least not for many years, had a consistent practice of sending out mail or electronic notification of violations or suspensionable actions taken in Massachusetts to other states in "real-time."

In other words, as far as we have been able to determine, apart from the CDLIS when it comes to commercial drivers, the RMV does not have any consistent past practice for notifying other states about events that occur in Massachusetts, including taking actions to suspend drivers from other states. Clearly, in the interest of safety that has to change.

While our hope in 2019 would be that the RMV could institute such a notification system electronically, we have learned there is currently no electronic means available when taking action on non-CDL drivers.

It is our hope that through the lapses we've identified, and the unprecedented NDR Batch Process we have launched, that Massachusetts can help lead that change.

As a reminder, we will continue using the CDLIS system for commercial drivers.

That means the only current option for us to undertake this safety-critical task with respect to non-commercial drivers, is to do what other states do: mail out notifications to other states whenever Massachusetts takes any action or enters any information about an out-of-state, non-CDL driver.

We have worked with the ATLAS team to ensure that an automatic processing system will be in place by the end of July to generate and mail these outgoing paper notifications.

Further, we are working with ATLAS to generate notifications for both the end results of the NDR Batch Process, and for notifications about changes made within the NDR for both commercial and non-commercial driver records retroactive to the launch of the ATLAS system on March 26, 2018.

This will be a massive effort, meaning states will be receiving large amounts of mail from Massachusetts -- especially nearby states such as Connecticut, New Hampshire and New York whose drivers frequently operate in Massachusetts.

Given the likely volume of mail involved, we have communicated this intention to AAMVA, and both the RMV and AAMVA, will be providing notice to all 50 states prior to the mailing of these notifications.

We have identified the appropriate state agencies' mail receiving departments and initial ATLAS processes will allow us to calculate and notify receiving states of the approximate volume of notifications each can expect to receive.

The responsibility for outgoing notifications will also be assumed by the new Out of State (OOS) Notifications Processing Unit under the Registrar mentioned earlier.

VII. Additional Organizational & Policy Changes

Every day, RMV staff strive to meet the organization's twin mission of public safety and customer service, but as these events and our preliminary findings have shown, we must do more to assess, balance and reprioritize our public safety function.

In addition to the legislation filed by Governor Baker, and the new Out of State (OOS) Notifications Processing Unit under the Registrar, we will restructure the senior management team to include a Deputy Registrar for Safety, a position for which we have begun recruitment already.

And as our reassessment progresses, clear lines of responsibility for those safety-related functions, including the issuance and oversight of commercial licenses and enforcement activities including hearings and suspensions, will be established under the Deputy Registrar for Safety.

VIII. End-to-End Independent Review & Oversight

While we have identified some initial needs for organizational and policy reform as part of this preliminary review, the RMV has also engaged the firm of Grant Thornton to conduct an independent, end-to-end forensic review as to understanding the RMV's processes, internal controls and policies with respect to the processing of state-to-state violation notifications and make recommendations to improving the effectiveness, efficiency and accountability in this area.

We are committed to making that report available to the public and members of this Committee when complete.

And in addition to this Committee and the Legislature, we have and will continue to engage our state and federal oversight partners, including the MassDOT Board of Directors, the Office of the Inspector General, and the Federal Motor Carrier Safety Administration (FMCSA) on steps that can be taken to improve our processes and protocols.

IX. Conclusion

In conclusion, the RMV is committed to regaining the public's trust by learning from its mistakes and failures, fixing what went wrong, and more effectively prioritizing our focus on the safety of the traveling public on the Commonwealth's roads by:

1. Learning from and making public the forensic review by Grant Thornton so that we can be held accountable for the additional recommendations made by them and other oversight partners, including this Committee.
2. Ensuring state laws relative to commercial driver's licenses are stronger, and enforced.
3. Hiring a Deputy Registrar for Safety and new Out of State (OOS) Notifications Processing Unit to reprioritize our focus on public safety and to ensure we are handling communications with other states efficiently and expeditiously.
4. Performing a comprehensive, unprecedented review of all 5.2 million Massachusetts licensure records against the NDR to ensure our records accurately reflect actions taken by other states, and to take action against drivers expeditiously should those updates require it.
5. And finally, using that review, and the capabilities and knowledge of ATLAS, other states, and outside experts, to provide leadership on how the necessary communications at the root of this hearing can be streamlined and transmitted electronically.