



DELAWARE GENERAL ASSEMBLY

FINAL REPORT AND RECOMMENDATIONS  
OF THE UNDOCUMENTED MOTORIST  
SAFETY & INSURANCE TASK FORCE

ESTABLISHED UNDER THE PROVISIONS OF  
SENATE CONCURRENT RESOLUTION No. 36,  
PASSED BY THE STATE SENATE AND  
THE HOUSE OF REPRESENTATIVES  
OF THE 147TH GENERAL ASSEMBLY,  
JANUARY, 2014

# TABLE OF CONTENTS

Introduction	Page3
Copy of Senate Concurrent Resolution No. 36	Page 5
Task Force Members and Staff	Page 9
Task Force Findings and Recommendations	Page 11
Minutes of Task Force Meeting of February 18, 2014	Page 15
Minutes of Task Force Meeting of April 2, 2014	Page 26
Minutes of Task Force Meeting of May 13, 2014	Page 38
Minutes of Task Force Meeting of June 19, 2014	Page 49
Minutes of Task Force Meeting of October 1, 2014	Page 58
Minutes of Task Force Meeting of December 1, 2014	Page 77

# INTRODUCTION

The Undocumented Motorist Safety & Insurance Task Force (the “Task Force”) was established by the 147th General Assembly via Senate Concurrent Resolution No. 36. In authorizing the Task Force, the General Assembly recognized the possibility that public safety, economic dynamism, and general wellness in Delaware might be enhanced by a framework in which undocumented Delawareans lawfully could operate vehicles and obtain automobile insurance.

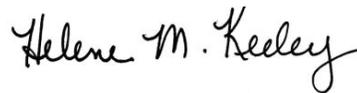
This Report summarizes the work of the Task Force, which was comprised of representatives from a diverse set of local and regional stakeholders. The members of the Task Force discharged their duties over the course of six meetings, and worked diligently, in good faith, and with the goal of identifying the possibility and practicality of establishing an effective system of driving privilege cards that would benefit undocumented Delawareans, Delaware motorists, and the general Delaware public.

In the pages that follow, the findings and recommendations of the Task Force are set forth, as are summaries of each Task Force meeting. The summaries have been crafted to give readers an understanding of the depth and breadth of the issues examined by the Task Force. For those readers who are interested in more detail, the formal minutes of each meeting are also provided. The arc of the Task Force’s meetings and discussions certainly was a journey, and we invite the reader to review the detailed minutes and traverse that arc so as to understand more fully the hard work and thorough deliberation of the Task Force.

The Task Force Co-Chairs thank each and every member of the Task Force for his or her service and participation in that deliberation. The significant developments at the federal level concurrent with the final meetings of the Task Force demonstrate that the issue of the opportunities and responsibilities open to undocumented members of our community is an important one. It will be the responsibility of our elected and appointed officials to build on the thorough work of the Task Force and determine the systems Delaware will implement in pursuit of enhancing safety, economic opportunity, and overall wellness for all members of the Delaware community. It will be the responsibility of community leaders to build trust and faith among undocumented Delawareans that any system put into place by Delaware is one that can promote safety, opportunity, and wellness for all, and that the extension of formal opportunities brings with it formal responsibilities. We take heart that, as evidenced by the product of a Task Force with diverse membership, these kinds of conversations and outcomes are possible in Delaware.



Senator Bryan Townsend, Co-Chair



Representative Helene Keeley, Co-Chair

Legislative Hall, Dover  
December 23, 2014



*The Undocumented Motorist Safety & Insurance Task Force hears from a member of the public during a meeting at the Buena Vista State Conference Center.*

FULL TEXT OF  
SENATE CONCURRENT  
RESOLUTION NO. 36



SPONSOR: Sen. Townsend & Sen. Marshall & Rep. Keeley & Rep.  
Miro  
Sens. Henry, Ennis; Reprs. Baumbach, Kowalko, Osienski

DELAWARE STATE SENATE  
147th GENERAL ASSEMBLY

SENATE CONCURRENT RESOLUTION NO. 36

ESTABLISHING A TASK FORCE TO STUDY AND MAKE FINDINGS AND RECOMMENDATIONS REGARDING  
ENHANCING MOTORIST SAFETY AND INSURANCE COVERAGE AMONG DELAWARE MOTORISTS.

- 1           WHEREAS, the safety and wellness of Delaware motorists and pedestrians are a paramount concern of the State;
- 2           WHEREAS, the safety of Delaware motorists and pedestrians is enhanced by ensuring Delaware motorists are  
3 educated on how to operate a motor vehicle safely;
- 4           WHEREAS, the wellness of Delaware motorists and pedestrians is enhanced by ensuring Delaware motorists are  
5 covered by automobile insurance;
- 6           WHEREAS, existing law prohibits Delaware's Division of Motor Vehicles (the "Division") from issuing an  
7 original driver's license or identification card to a person who does not submit satisfactory proof that his or her residence in  
8 the United States is authorized under federal law;
- 9           WHEREAS, despite a lack of eligibility for such license or identification card, some individuals in Delaware  
10 operate or are likely to operate motor vehicles without the benefit of having completed motorist safety courses or having  
11 obtained insurance coverage;
- 12           WHEREAS, issuing a Driving Privilege Card to individuals notwithstanding their ineligibility for such license or  
13 identification card might enable the Division to remain in compliance with federal laws even while promoting the safety  
14 and wellness of Delaware motorists and pedestrians by ensuring more Delaware motorists have the opportunity to complete  
15 motorist safety courses and obtain insurance coverage;
- 16           WHEREAS, issuing a Driving Privilege Card stands to alleviate stress on the Delaware judicial, law enforcement,  
17 and emergency responder systems, to the extent such issuance reduces the number of unlawful motorists on Delaware  
18 roadways and the number of motor-vehicle accidents;
- 19           WHEREAS, ensuring that more Delaware motorists have the opportunity to complete motorist safety courses and  
20 obtain insurance coverage can enhance the dynamism of the Delaware economy and the wellness of its workforce; and

21 WHEREAS, the General Assembly deems it to be in the best interest of Delawareans and the Delaware economy  
22 to explore the benefits of Driving Privilege Cards now, rather than wait along an indeterminable timetable for the United  
23 States Congress to take action that might ultimately achieve identical or similar benefits;

24 NOW, THEREFORE:

25 BE IT RESOLVED by the Senate of the 147<sup>th</sup> General Assembly of the State of Delaware, the House of  
26 Representatives concurring therein, that the Undocumented Motorist Safety & Insurance Task Force (“Task Force”) be  
27 established to study and make findings and recommendations regarding establishing a Driving Privilege Card, requiring  
28 motorist safety courses, and enabling and encouraging undocumented drivers to obtain automobile insurance.

29 BE IT FURTHER RESOLVED that the Task Force be composed of the following members:

- 30 1. Three members of the Delaware Senate, including a co-chair, appointed by the President *pro tempore*,
- 31 2. Three members of the Delaware House of Representatives, including a co-chair, as appointed by the  
32 Speaker of the House,
- 33 3. A representative from the Office of the Governor, appointed by the Governor,
- 34 4. Three members of the Delaware Hispanic Commission, appointed by the leadership of that Commission,
- 35 5. A representative from the Department of Homeland Security, appointed by the Secretary of that  
36 Department,
- 37 6. A representative from the Delaware State Police, appointed by the Colonel,
- 38 7. A representative from the Police Chiefs’ Council, appointed by the President of that Council,
- 39 8. A representative from the Department of Health and Social Services, appointed by the Secretary of that  
40 Department,
- 41 9. A representative from the Division of Motor Vehicles, appointed by the Director of that Division,
- 42 10. A representative from the Department of Labor, appointed by the Secretary of that Department,
- 43 11. A representative from the Attorney General’s Office, appointed by the Attorney General,
- 44 12. A representative from the Insurance Commissioner’s Office, appointed by the Insurance Commissioner,
- 45 13. A representative from the Latin American Community Center, appointed by the leadership of that  
46 organization,
- 47 14. A representative from the Consejo Pastoral de Delaware (Pastoral Council of Delaware, or COPAD),  
48 appointed by the leadership of that organization,
- 49 15. A representative from La Esperanza, appointed by the leadership of that organization,

- 50 16. A representative from the New Castle County Chamber of Commerce, appointed by the leadership of that  
51 chamber,
- 52 17. A representative from the Central Delaware Chamber of Commerce, appointed by the leadership of that  
53 chamber,
- 54 18. A representative from the Greater Georgetown Chamber of Commerce, appointed by the leadership of  
55 that chamber,
- 56 19. A representative from the Mid-Atlantic Hispanic Chamber of Commerce, appointed by leadership of that  
57 chamber,
- 58 20. A representative from the private insurance providers of property and casualty coverage in Delaware,  
59 who shall be a local employee living and working in Delaware and whom shall be appointed by the co-  
60 chairs of the Task Force,
- 61 21. A representative from the Delaware Alliance for Community Advancement, appointed by leadership of  
62 that organization, and
- 63 22. A representative from the Delmarva Poultry Industry, appointed by leadership of that organization.

64 BE IT FURTHER RESOLVED that the focus of the Task Force's study, findings and recommendations include:

- 65 1. The design of a Driving Privilege Card, including appropriate indications regarding limitations on its use  
66 for identification purposes;
- 67 2. The scope of use of a Driving Privilege Card, including geographic limitations (e.g., not to be used  
68 outside of Delaware) and other limitations (e.g., not to be used to establish bank accounts);
- 69 3. Considerations relating to fraudulent production or usage of a Driving Privilege Card;
- 70 4. Logistical considerations for the Department of Motor Vehicles in the implementation of a Driving  
71 Privilege Card system, including those relating to mandatory completion of a motorist safety course  
72 prior to obtaining a Driving Privilege Card;
- 73 5. Appropriate storage of data, and limitation thereon, relating to data collected for those that would obtain  
74 a Driving Privilege Card; and
- 75 6. Means of enabling and encouraging those individuals who receive a Driving Privilege Card to obtain  
76 automobile insurance.

77 BE IT FURTHER RESOLVED that the co-chairs of the Task Force be responsible for guiding the administration  
78 of the Task Force which includes:

- 79 1. Setting a date, time and place for the initial organizational meeting;

- 80                   2. Supervising the preparation and distribution of meeting notices, agendas, minutes, correspondences, and  
81                   reports of Task Force;
- 82                   3. Sending, after the first meeting to the Task Force, a list of the members of the Task Force and the person  
83                   who appointed them to the Director of Research of Legislative Council; and
- 84                   4. Ensuring that the final report of the Task Force is submitted to the President *pro tempore* of the Senate  
85                   and the Speaker of the House of Representatives, with a copy to the Governor.

86                   BE IT FURTHER RESOLVED that the Senate Majority Caucus be responsible for providing reasonable and  
87 necessary support staff and materials for the Task Force.

88                   BE IT FURTHER RESOLVED that the Task Force begins meeting within three weeks of the passage of this  
89 resolution, meets at least once every month unless otherwise instructed by the co-chairs, and issues recommendations to the  
90 President Pro Tempore of the Senate and the Speaker of the House of Representatives no later than October 31, 2014.

91

#### SYNOPSIS

This resolution establishes the Undocumented Motorist Safety & Insurance Task Force and charges the Task Force with analyzing and making recommendations relating to the possibility of enhancing safety, economic dynamism, and wellness in Delaware via: (1) the issuance of Driving Privilege Cards to undocumented Delawareans who complete a motorist safety course, and (2) enabling and encouraging undocumented Delawareans to obtain automobile insurance coverage.

Author: Senator Townsend

# Membership of the Undocumented Motorist Safety & Insurance Task Force

## ***Description of Members' Affiliations:***

3 Senate Members (1 co-chair)  
3 House Members (1 co-chair)  
A Representative of the Office of the Governor  
3 Members of the Delaware Hispanic Commission  
A Representative of the Dept. of Safety and  
Homeland Security  
A Representative of the Delaware State Police  
A Representative of the Del. Police Chiefs' Council  
A Representative of the Dept. of Health and  
Social Services  
A Representative of the Division of Motor Vehicles  
A Representative of the Dept. of Labor  
A Representative of the Attorney General's Office  
A Representative of the Office of the  
Insurance Commissioner  
A Representative of the Latin American  
Community Center  
A Representative of the Consejo Pastoral de Delaware  
(Pastoral Council of Delaware or COPAD)  
A Representative of La Esperanza  
A Representative of the New Castle County  
Chamber of Commerce  
A Representative of the Central Delaware  
Chamber of Commerce  
A Representative of the Greater Georgetown  
Chamber of Commerce  
A Representative of the Mid-Atlantic Hispanic  
Chamber of Commerce  
A Representative of the private insurance providers of  
property and casualty coverage in Delaware, living and  
working in Delaware  
A Representative of the Delaware Alliance for  
Community Advancement  
A Representative of Delmarva Poultry Industry, Inc.

## ***Appointing Authority:***

The Hon. Patrica M. Blevins, President Pro Tempore  
The Hon. Peter C. Schwartzkopf, Speaker of the House  
The Hon. Jack Markell, Governor  
Leadership of the Hispanic Commission  
The Hon. Lewis D. Schiliro, Secretary  
  
Colonel Nathaniel McQueen, Jr., D.S.P. Commandant  
President of the Council  
The Hon. Rita Landgraf, Secretary  
  
Ms. Jennifer Cohan, Director of DMV  
The Hon. John McMahan, Jr., Secretary  
The Hon. Joseph R. Biden, III, Attorney General  
The Hon. Karen Weldin Stewart, Commissioner  
  
Leadership of the L.A.C.C.  
  
Leadership of the COPAD  
  
Leadership of La Esperanza  
Leadership of the N.C.C. Chamber  
  
Leadership of the CD Chamber  
  
Leadership of the Georgetown Chamber  
  
Leadership of the Mid-Athantic Chamber  
  
Co-Chairs of the Task Force  
  
Leadership of the Alliance  
  
Leadership of D.P.I.

## ***Appointed Members:***

Senator Bryan Townsend, Co-Chair  
Senator Robert Marshall  
Senator Brian Pettyjohn  
Representative Helene Keeley, Co-Chair  
Representative Andria Bennett  
Representative Joseph Miro

## ***Representing/ Date of Appointment:***

Delaware State Senate, 01/29/2014  
Delaware State Senate, 01/29/2014  
Delaware State Senate, 01/29/2014  
Delaware House of Representatives, 02/07/2014  
Delaware House of Representatives, 02/07/2014  
Delaware House of Representatives, 02/07/2014

James Collins*	Office of the Governor, 02/06/2014
(* Mr. Collins was replaced by Drew Fennell, Esq.)	Ms. Fennell was appointed in 11/2014
Mr. Javier Torrijos	Delaware Hispanic Commission, 02/06/2014
Rosario Calvachi-Mateyko	Delaware Hispanic Commission, 02/06/2014
Matthew Heckles	Delaware Hispanic Commission, 02/06/2014
Raymond Holcomb	Dept. of Safety and Homeland Security, 02/06/2014
Major Melissa Zebley	Delaware State Police, 02/06/2014
Chief William Topping	Police Chief's Council, 02/06/2014
Deborah Gottschalk, Esq.	Dept. of Health & Social Services, 02/06/2014
Jennifer Cohan	Division of Motor Vehicles, 02/06/2014
Keyla Rivero-Rodriguez	Dept. of Labor, 02/06/2014
Sean Lugg, Esq.	Office of the Attorney General, 02/06/2014
Karen Weldin Stewart	Office of the Insurance Commissioner, 02/06/2014
Ana Velasquez	Latin American Community Center, 02/06/2014
Pastor Jermias Rojas	Consejo Pastoral de Delaware, 02/06/2014
Claudia Poretti	La Esperanza, 02/06/2014
New Castle County Chamber of Commerce	No Appointment Made
Judy Diogo	Central Del. Chamber of Commerce, 02/06/2014
Greater Georgetown Chamber of Commerce	No Appointment Made
Jose Somalo	Mid-Atlantic Hispanic Chamber of Commerce, 02/06/2014
Bryan Cochran	Delaware Alliance for Community Advancement, 02/06/2014
Darlene Battle	Delaware Alliance for Community Advancement, 02/06/2014
Delmarva Poultry Industry, Inc.	No Appointment Made

***Undocumented Motorist Safety and Insurance Task Force Support Team:***

**Michelle Zdeb**, Legislative Assistant for the Delaware State Senate Majority Caucus, staffed the meetings, planned and coordinated the work of the Task Force, reviewed the Meeting Minutes and Report Materials and provided liaison services between the Task Force and public.

**Shelley Earley**, Legislative Secretary for the Delaware State Senate Majority Caucus, and Caitlin Del Collo, Legislative Fellow for the Delaware State Senate

Majority Caucus, summarized the Task Force meetings and assisted in staffing the meetings.

**Dick Carter**, Special Projects Director for the Delaware State Senate Majority Caucus, compiled and reviewed the Task Force Report.

**Alton Irvin**, Communication Assistant for the Delaware State Senate Majority Caucus, provided photography services during Task Force meetings.

# Undocumented Motorist Safety & Insurance Task Force Findings

- A significant number of undocumented Delawareans currently drive without licenses (including without having obtained auto insurance or taken a written test, road test, or eye test). These individuals currently are ineligible for any form of driving permit presently issued in Delaware.
- Ensuring that more Delaware motorists have passed driving-related tests and obtained automobile insurance stands to help increase safety and reduce insurance premiums for all Delaware motorists.
- Several other states have already enacted legislation establishing “driving-privilege card” systems to help improve public safety on roadways. The examples of these states provide Delaware with an opportunity to adopt elements of systems that have been effective and enable us to avoid elements of systems that have been ineffective. Importantly, anti-fraud measures are necessary, as is a comprehensive, community-driven education campaign. Also importantly, these systems are best thought of as ways of establishing lawful drivers but not establishing the formal identity of those individuals.
- Many undocumented Delawareans contribute to Delaware’s economy and community, including the payment of taxes on their salaries/wages.
- Many undocumented Delawareans are willing to “step out of the shadows” and more formally integrate into the Delaware community, but currently lack an avenue along which to do so.



*Members of the Undocumented Motorist Safety & Insurance Task Force meet at the Tatnall Building in Dover.*

- The more complicated the application process, the less likely undocumented Delawareans are to apply for a driving-privilege card. Most specifically, if fingerprints are a required part of the application process, many undocumented Delawareans may opt not to apply for driving-privilege cards.
- Structured properly, a driving-privilege card system will improve public safety on roadways while discouraging fraudulent applications or a direct influx of new immigrants. It is important that any system implemented should ensure that Delaware remains in compliance with the 2005 federal Real ID Act.
- The pace and scope of immigration reform at the federal level remains uncertain. There is significant merit to Delaware choosing not to wait for progress at the federal level, and taking whatever actions it can to improve public safety on Delaware roadways, strengthen economic and community opportunities for all Delaware residents, and resolve sensitive immigration and cultural issues.

## Task Force Recommendations

- The Delaware General Assembly should pass legislation to implement a driving-privilege card system that complies with all federal and state identification requirements and that provides undocumented Delawareans the opportunity to drive on Delaware roadways legally, more safely, and with automobile insurance. As a means of striking the right balance between enhancing safety on Delaware roadways and not encouraging a wave of undocumented residents moving to Delaware, the system should require that applicants submit two years' of Delaware tax returns (or evidence showing they are dependents claimed on such returns). The system also should require applicants to meet all other requirements for a standard driver's license issued by the Delaware Division of Motor Vehicles. The General Assembly should examine in more detail the costs and benefits of including fingerprints as a requirement of the application.
- The Delaware General Assembly should undertake efforts, including enacting legislation, to ensure that any information obtained from applicants for the driving-privilege card is not used for other purposes, unless the information is indicative of criminal history that suggests a potential threat to public safety. More specifically, the Delaware General Assembly should pass a "Trust Act." The Task Force has not developed a sample, but the Task Force does submit that a Trust Act should relate solely to the issue of the exchange of undocumented status/information and should not be relied on as protection against charges or processing for violent or other serious criminal activity.
- The Delaware General Assembly should support community and law-enforcement groups in their efforts to educate undocumented Delawareans about the requirements of the driving-privilege card system and application, so as to increase participation in the system.
- The Delaware General Assembly should undertake efforts over time to identify possible enhancements to the system, including modifications as federal immigration laws change and enhancements to penalties for undocumented drivers who choose not to participate in the system.

## Summary of Meetings

**February 18, 2014** — the Task Force heard introductory comments from members. The Task Force then received a formal presentation from Jennifer Cohan, Director of Delaware’s Division of Motor Vehicles, on the details of efforts by other states to address the important issue of integrating undocumented residents into the population of lawful drivers. Open discussion by the Task Force included the topics of:

- (1) reciprocity among states with driving-privilege card systems;
- (2) the DMV not being able to authenticate the documentation individuals bring from their native countries;
- (3) a requirement of Delaware tax returns to confirm residency and deter fraud;
- (4) the challenge of making individuals wait to obtain a driving-privilege card if they are moving to Delaware for the purposes of employment already obtained;
- (5) whether to refer to these cards as “driving-privilege cards” or “driving-authorization cards”;
- (6) whether Delaware would have to comply with a request from the federal government for information about applicants to Delaware’s driving-privilege card program;
- (7) the public safety benefits realized by states that have already implemented these systems;
- (8) the ability of undocumented motorists to obtain insurance notwithstanding their undocumented status;
- (9) the up-front costs and longer-term recouping of costs for the DMV to implement this system;
- (10) poll results from Delaware’s Latino community regarding their willingness to apply for driving-privilege cards;
- (11) the benefits to law enforcement of having more motorists be in possession of some document issued by Delaware;
- (12) the passage of a Trust Act that prohibits state and local law enforcement from turning undocumented motorists over to federal authorities simply on their undocumented status;

and,

(13) the issue of undocumented motorists entering the criminal justice system due to traffic stops for driving unlawfully, and possible transition into the federal immigration system.

**April 2, 2014** — the Task Force received a presentation from the Delaware Department of Safety and Homeland Security regarding the process of interactions between law enforcement, DSHS, and federal officials relating to undocumented Delawareans. The Task Force then received a presentation from the Coalition for a Secure Driver’s License (CSDL) and a presentation from the Delaware Department of Insurance, which included discussion of anti-fraud and documentation verification issues and insurance affordability issues, respectively. Additional Task Force discussion included the topics of:

- (1) the potential for card holders to be reported to immigration officials by those who see the holders in possession of the unique cards;

and,

(2) the process likely to unfold if a card holder is involved in a traffic accident while traveling outside of Delaware.

**May 13, 2014** — the Task Force received a presentation from a representative of the private automobile insurance industry. Discussion followed, including:

- (1) the issue of insurance affordability for undocumented motorists;
- (2) whether a system would develop that does not charge high premiums for undocumented motorists who actually have lengthy driving experience in their native countries;

and,

(3) issues relating to how law enforcement identifies undocumented motorists, and the impact of traffic stops on the driving records of undocumented motorists.

**June 19, 2014** — the Task Force received a joint presentation from Task Force members representing the Delaware State Police and the Delaware Police Chiefs' Council. The presentation expressed the view that there could be a benefit to a driving-privilege card system. The presentation also called for the inclusion of fingerprints in the application requirements and for the DMV to verify as much documentation as possible. The Task Force discussed the conclusions of the presentation, as well as the importance of community engagement and education to help undocumented Delawareans. The Task Force also discussed the possibility of passing a companion Trust Act to ensure undocumented Delawareans that:

(1) law enforcement would not report non-criminal offenses to immigration officials,

and/or

(2) the DMV would not provide its database information to federal officials. The Task Force also received a presentation from the American Association of Motor Vehicle Administrators. The presentation revised ongoing efforts around the country to address this issue, and confirmed that there are public safety benefits to implementing a system of driving-privilege cards. The Task Force next discussed the timetable for producing a final report.

**October 1, 2014** — the Task Force engaged in lengthy open discussion regarding the benefits and costs of requiring fingerprints as a part of an application for a driving-privilege card. The discussion covered several topics, including:

(1) when and how law enforcement would utilize fingerprints on record;

(2) the chilling effect that a fingerprint requirement would have on people signing up for cards (and thus reducing the public-safety benefits of the program);

(3) the importance of a robust education campaign among members of the undocumented community;

and,

(4) passing a Trust Act that would not inhibit law enforcement from doing its job but would reassure undocumented Delawareans that their information would not be provided to immigration officials.

**December 1, 2014** — the Task Force engaged in open discussion and finalized its Report.

# Minutes of the Undocumented Motorist Safety & Insurance Task Force Meeting of February 18, 2014

Buena Vista State Conference Center, 4:30 – 6:30 p.m.

## Task Force Members Present:

Senator Bryan Townsend  
Representative Andria Bennett  
Javier Torrijos  
Mathew Heckels  
Major Melissa Zebley  
Jennifer Cohan  
Ana Velasquez  
Jose Somalo  
Darlene Battle

Senator Robert Marshall  
James Collins  
Rosario Calvachi-Mateyko  
Raymond Holcomb  
Deborah Gottschalk, Esq.  
Sean Lugg  
Claudia Pena Porretti  
Bryan Cochran

## Absent:

Senator Bryan Pettyjohn  
Representative Joseph Miro  
Keyla Rivero-Rodriguez  
Pastor Jermias Rojas

Representative Helene Keeley  
Chief William Topping  
Karen Weldin Stewart  
Judy Diogo

## Staff:

Michelle Zdeb  
Mariclaire Luciano

Alton Irvin

## Attendees:

Gene Reed, DOI, Representing Commissioner Stewart  
Rev. Carlos Ochoa, St. John Holy Angels Parish  
Rev. Salvador Magario, St. Catherine of Siena Church  
Andrew Meehan, CSDL  
Scott Vien, DMV  
Kevin Andrade, member of the media

Rhonda West, DOI  
Vladimir Rosales, LA ZMY Radio  
Max Gluestein, CSDL  
Kami Beers, DMV  
Mike Williams, DMV

The task force meeting was brought to order at 4:38 pm.

\* \* \*

## INTRODUCTIONS:

Senator Townsend, co-chair, introduced himself and thanked the members of the Task Force for responding so quickly upon the passage of Senate Concurrent Resolution (SCR) 36. He then turned the floor over to the members of the Task Force, who were present, to introduce themselves. The Senator noted that the Delmarva Poultry Industry and the Greater Georgetown Chamber of Commerce declined to have representatives on the Task Force, but that they are welcome to join in the public comment at any time. He further noted the New Castle County Chamber of Commerce is still deciding whether to have a representative on the Task Force.

## TASK FORCE TIMETABLE

Senator Townsend stated per SCR 36, the Task Force is to meet monthly unless the co-chairs indicate otherwise. Furthermore, the report is due to the President Pro Tempore of the Senate and the Speaker of the House of Representatives no later than October 31, 2014.

## BACKGROUND OF SENATE CONCURRENT RESOLUTION 36

Senator Townsend shared that Representative Keeley is glad that there is a renewed focus on the issue of

undocumented motorist safety and insurance, as she, Representative Miro, and Senator Marshall have been looking at the issue for a while.

The Senator further elaborated that the background of SCR 36 was due to not just passing a law, but getting a knowledgeable, well diverse group together to look at an extremely complex issue. He noted how the issue affects many people in the state, including members of the General Assembly and their families, some of whom have been in automobile accidents involving undocumented drivers. The Senator explained that the Task Force has broad representation because of the fact that the issue is far-reaching in its impacts. Additionally, the Delaware Hispanic Commission and other legislators have wanted to address the issue for some time.

## OVERVIEW OF ISSUES

Senator Townsend turned the floor over to Task Force member, Javier Torrijos, to provide an overview of the issues.

Javier Torrijos, Chair of the Delaware Hispanic Commission, thanked the Senator for sponsoring SCR 36. He stated that the issue is important, as some people live in fear and have a difficult time traveling from point A to point B. Furthermore, the Delaware Hispanic Commission (DHC) would like to see a responsible bill passed through the General Assembly as a result of the Task Force.

Senator Townsend thanked Mr. Torrijos and invited other members of the Task Force to provide input.

Bryan Cochran, representing the insurance industry, confirmed that the insurance industry is not prepared to take a stance on any immigration issues. Generally the industry supports attempts to test, license, and insure the safety of all individuals.

Senator Townsend affirmed that although some people thought immigration would be addressed at the federal level, this may not happen anytime soon, and thus it is important for the Task Force to face the issue of undocumented motorists. The Task Force is concerned with making sure that people, many who are already driving, can do so safely, legally, and with insurance. Another concern is making sure that the Delaware economy is more dynamic, fluid, and safer. There are many stakeholders, including the police, Homeland Security, and private insurers, which is why there is a diverse group at the table.

Mr. Cochran provided additional background on the issue, indicating the dilemma came from the Real ID Act, which Congress passed in 2005, and set the standards for

state driver's licenses to be used for federal identification purposes. Another policy from the federal level that spurred action within the states is the Deferred Action for Childhood Arrivals Act. Children who qualify under this policy are referred to as "dreamers." These individuals must be under 30 years of age, must have resided in the U.S. continuously since June 15, 2007, must have arrived in the U.S. before the age of 16, and must attend high school, have earned a diploma or G.E.D., or have received an honorable discharge from the Coast Guard or branch of the military. Additionally, children must not have felonies or significant misdemeanors or pose a threat to national security and/or safety.

As of August 31, 2013, it was estimated, there were 1.76 million eligible "dreamers". The United States Citizenship and Immigration Services (USCIS) received 588,000 applications and approved approximately 455,000 applications. A "dreamer" is not an adult, but a child who has resided in the U.S. since before the age of 16. Mr. Cochran added that issuing driver's licenses to undocumented immigrants is a minimal cost to society. Issuing licenses to those who pass the test and demonstrate compliance with safety laws would have a positive effect on everyone's premiums.

To date only Arizona and Nebraska have decided against issuing driver's licenses to Deferred Action for Childhood Arrivals recipients. Eleven states, including California, Connecticut, Colorado, Illinois, Maryland, Nevada, New Mexico, Oregon, Utah, Vermont, and Washington have passed laws allowing undocumented immigrants to apply for some kind of driver permission. The application processes in Maryland, Washington, and Utah became effective in January 2014. Oregon's process became effective January 2014 as well, but is subject to a referendum in November. Colorado and Connecticut's processes will begin in August 2014; California's process will be effective January 2015. These permissions are not federal ID approved. New Mexico and Utah issue a type of driver's license that is marked to show that they are not federally approved. Utah issues a "driver privilege card." Illinois began issuing temporary visitor driver's licenses in November 2013. Mr. Cochran stated that he has access to statutes pertaining to the dreamer act to which the Task Force can refer at any time.

Senator Townsend stated this issue affects not only undocumented immigrants of Hispanic origin, but others as well. He noted that he receives emails from an undocumented Asian immigrant in his district. The Senator made clear the Delaware Alliance for Community Advancement (DACA) is on the Task Force representing a broader group of undocumented immigrants. He then asked if there were additional comments before proceeding with the presentation by Task Force member, Director Jennifer Cohan, of the Division of Motor Vehicles (DMV).

Gene Reed, Deputy Insurance Commissioner, was there speaking on behalf of the Insurance Commissioner and Task Force member Karen Weldin Stewart. He stated that the Commissioner supports the mission of the Task Force, and that Delaware could lead the nation by example on the issue.

#### PRESENTATION BY JENNIFER COHAN, DIRECTOR OF THE DIVISION OF MOTOR VEHICLES (DMV)

A summary of Director Cohan's slides is provided below:

Director Cohan introduced her team and stated that she would like the Task Force to move away from referring to driver's licenses and instead use the term "driving privilege card." She explained that this helps to separate these cards from existing driver's licenses and thus avoid problems for both the DMV and law enforcement.

Slide 2: Around 2012 undocumented individuals who had previously been issued driver's licenses were no longer able to renew their licenses. Additionally, Delaware was the first state to become compliant with the Real ID Act of 2005. Increasing the number of drivers who lack knowledge of the rules of the road is a safety concern, and the evidence indicates that such individuals are driving anyway.

Slide 3: The Federal Department of Homeland Security now allows the issuance of driving privilege cards as long as they are clearly marked that they are not for federal identification purposes. Currently about 60% of Delaware drivers have federally compliant licenses. The DMV would recommend a third tier category of driving privilege cards which would permit driving purposes only.

Slide 4: The DMV has helped identity management, specifically in cases of fraud and identity theft. Out of 12,000 cases reviewed, 1,300 cases were criminal identity theft. Furthermore, at one point prior to implementing the new system, there would be 12-20 attempts per week to bring fraudulent information and try to obtain things through fraud, but now there is only one attempt every six months. Director Cohan added that the public and private sectors rely heavily upon driver's licenses, including banks, mortgage lenders, and even the Department of Health & Social Services (DHSS) when providing services.

Director Cohan noted some states are handling the issue well, while others are not.

Slide 5: Illinois was the first state to implement driving privilege cards.

Slide 6: New Mexico is an example of what not to do: they issue a regular driver's license with no Social Security

Number (SSN) required. Fraudulent activity has increased by over 50% in New Mexico. People from other states go to New Mexico specifically to obtain a driver's license, with evidence of linked criminal activity occurring as far away as North Carolina. New Mexico's lenient process for obtaining a driver's license has not had any impact on reducing uninsured motorists, reducing crashes, or improving public safety.

Slide 7: Originally Utah did not require finger printing and a photo for driving privilege cards applicants, but has since required those due to increased fraudulent activity. The DMV in Delaware does not think that finger printing would be necessary.

Slide 8: The state of Washington is still working out their license process, which is driven by jobs, specifically within the apple picking industry.

Slide 9: Nevada's driver authorization cards are similar to what the Delaware DMV would propose. However, Nevada's experience has indicated that a substantial education campaign would be necessary, since 75% of those who applied for driver authorization cards failed the test.

Slide 10: The Delaware DMV likes some of the requirements that are used in Maryland, including two years of tax documentation and alternative identification such as a valid foreign passport or driver's license from another country. Maryland is phasing in their program by offering the service through appointment only.

Slide 11: Connecticut is in the same phase as Delaware: created a Task Force to research the issue.

Slide 12: The backs of the cards issued in California indicate that they do not establish eligibility for employment, voter registration, or public benefits. The DMV does not think it would include this for Delaware-issued cards.

Slide 13: The DMV recommends that if driving privilege cards were to be issued, they would first require taking the complete written, vision, and road test. They also recommend requiring two years of filed Delaware Income Tax Returns in order to prevent undocumented individuals from coming to Delaware from other states just to obtain licenses, as has been the case in New Mexico. Director Cohan added that you don't necessarily have to have filed your own tax return; you can provide proof that you are a dependent on someone else's tax return.

The DMV recommends that the driving privilege card be valid for four years in order to perform more current facial recognition in order to decrease the potential for fraud. They also recommend a \$20 fee for the card (or \$5 per year).

Director Cohan clarified the DMV already allows Deferred Action students to obtain a driver's license. This was passed through legislation. The DMV checks with the federal immigration system, and students with deferred action show up as having legal status.

Slide 14: Director Cohan elaborated on the opportunities and challenges presented by the issuance of driving privilege cards:

#### Opportunities:

- Increase the number of motorists who meet minimum safety standards and know the rules of the road;
- Potential decrease in automobile accidents;
- Reduction of the number of insured motorists on Delaware roadways; currently 10% of motorists in Delaware are uninsured, which is a high rate;
- Decrease fear of undocumented individuals having contact with law enforcement; although the cards would not be for official identification purposes, they would facilitate the collection of information by law enforcement;
- Alleviate burdens on the judicial process for violators; there is a lot of involvement between the judicial system and undocumented individuals.

#### Challenges:

- The cost to issue the cards; the DMV provided Senator Marshall with a white paper on the estimated cost, which is \$1.5 million; much of the cost involves manpower and would be up front; the DMV has learned from Maryland that phasing in the testing may reduce this cost;
- An increase in the number of residents from other states coming to Delaware to obtain driving privilege cards; this challenge will be somewhat alleviated by requiring two years' of Delaware filed tax returns;
- The false perception that driving privilege cards legitimize the status of undocumented individuals; the Task Force needs to pay attention to how the private industry will perceive these cards;
- Reciprocity and consistency with other states; the DMV cannot guarantee that other states, such as Maryland, would honor Delaware-issued driving privilege cards; as a result, these cards would be privilege driving in Delaware only; Senator Townsend asked if there are any examples of reciprocity.

Director Cohan responded that there is a Driver's License Compact that ensures reciprocity, but that this does not necessarily cover driving privilege cards.

Senator Townsend inquired if any states that issue such cards have established reciprocity.

Director Cohan replied none of the states have yet, but that she has begun discussions with the state of Maryland, and that representatives from Virginia have not returned her calls. She stated that it would be nice to establish reciprocity in the Mid-Atlantic region; however, it would be difficult since states are doing things differently from one another.

She further stated another challenge is that driving privilege cards would establish a centralized body of information on undocumented individuals. This would be a separate system than what is used for driver's licenses, and is necessary because the two types of cards look different and have to be tracked differently. Director Cohan noted that it will be necessary to address how the undocumented community feels about this issue.

Slide 15: Discussed a sample driving privilege card referring to the driving privilege cards in Utah and stated the Delaware DMV would issue something similar but without all the red markings. She reiterated the proposed requirement of having two years of Delaware tax returns (including being a dependent on someone's return).

She further noted that the cards would have a lot of physical security features. Director Cohan also stated that the card would be available to those who are ineligible for a social security number (SSN), consistent with every other state. The cards would have to be clearly distinguishable from driver's licenses, which is a concern for Homeland Security. Furthermore, the cards would have to be phased in due to the increasing workload at the DMV.

Director Cohan concluded the presentation by asking if there were any questions.

#### OPEN DISCUSSION BY TASK FORCE MEMBERS

Gene Reed, Deputy Insurance Commissioner, representing Insurance Commissioner and Task Force member Karen Weldin Stewart, clarified that birth certificates are necessary in order to obtain a compliant driver's license and asked if the DMV would issue compliant driving privilege cards.

Director Jennifer Cohan responded that the DMV is not looking to do that, and that the cards would not establish identity, only one's ability to drive legally in Delaware.

Mr. Reed asked where undocumented individuals would go to obtain birth certificates if they were required for identification.

Director Cohan replied stating such individuals would need to go to their respective consulates or their home country, but that the DMV is not looking to require birth certificates in order to issue driving privilege cards. Director Cohan reiterated that the DMV would not be able to vet the identities of individuals who obtain driving privilege cards for several reasons. One major reason is that driver's licenses issued in other countries do not necessarily meet the same standards for identification as in the U.S., so the DMV cannot use a foreign driver's license to vet identity.

Mr. Reed clarified his question regarding birth certificates in reference to age, which he noted is a determining factor for insurance rates.

Deborah Gottschalk, Chief Policy Advisor with Division of Health and Social Services, inquired as to whether states that consider employment when issuing privilege cards ever waive residency requirements as long as an individual can prove employment. Ms. Gottschalk stated that in cases in which undocumented individuals move to Delaware from other states, it would be nice for them to have a driving privilege card right away, rather than wait two years, so they can be safe and insured.

Director Cohan acknowledged Ms. Gottschalk's point but responded that the DMV would not be able to verify which individuals are moving to Delaware for work.

Ms. Gottschalk stated that she did not realize that this would require employers to document that they have employed someone who does not have proof of citizenship. She was curious as to whether states like Washington have dealt with this issue, since their current licensing process is driven specifically by jobs in the apple picking industry. Ms. Gottschalk noted she has a contact at the National Immigration Law Center who can provide a legal perspective on the issue.

Director Cohan responded that the solution to the problem is comprehensive immigration reform on the federal level. What the DMV is proposing is essentially a "Band-Aid" for the state of Delaware.

Jose Somalo, President of the Sussex County Chapter for the Mid-Atlantic Hispanic Chamber of Commerce (MAHCC), asked whether other states require passports from the originating country as form of identity.

Director Cohan responded that some states do allow

a foreign passport for identification purposes. She further stated it can be difficult to determine whether a passport is fraudulent; the DMV has had people try to use fraudulent passports from other countries. Other times an individual will show a foreign passport that the DMV suspects is fraudulent, but it's not; the issue is that some nations' passports are below the standard used in the U.S.

Senator Townsend, co-chair, inquired if the point of requiring two years of Delaware tax returns is to prevent people from other states coming to Delaware to get a privilege card.

Director Cohan confirmed yes, that is the point.

Senator Townsend questioned if there are any states that require only one year's worth of tax returns.

Director Cohan replied that she did not think any states required just one year, and added that since Maryland requires two years, and the relationship between Delaware and Maryland is close, Delaware did not want to require any less.

Mr. Somalo asked if the tax return had to be federal or from the state of Delaware.

Director Cohan responded that the return would have to be from Delaware in order to prove that the individual resides in Delaware. She stated that in studying the issue, using state tax returns has been the best way to establish residency.

Senator Townsend asked for confirmation that the tax return requirement is purely to establish residency. Director Cohan confirmed yes.

Rosario Calvachi-Mateyko, co-chair of the Delaware Hispanic Commission, asked for confirmation that the DMV would not require identification from the individual's country of origin. She stated that undocumented persons sometimes have difficulty in obtaining passports from their home countries, especially in the cases of persons from Guatemala and Mexico. The difficulty is due to agreements between the countries that make it impossible to fake a passport. The time it takes to get a passport has increased from two weeks to three or four months, as the document has to go to the home country first. Ms. Calvachi-Mateyko stated that this is a good thing to prevent fraud. She noted she has heard from a majority of people that they do have tax identification.

She further inquired if the name "driving privilege card" could be changed to "safety driver card" or "required driver card," since the purposed of the cards is to ensure

safety and compliance with the law. She further stated that complying with the law is not a privilege, but an obligation held by motorists.

Senator Townsend encouraged input from James Collins.

James Collins, the Governor's Deputy Chief of Staff, suggested using the term "driving authorization card."

Director Cohan responded that she agrees that it is an obligation. She added that driving is a privilege for all Delawareans, not a right, and that people have to be tested as part of the requirements to obtain the privilege. This notion is taught in driver's education classes.

Ms. Calvachi-Mateyko pointed out that every other citizen has a driver's license which is not called a privilege card.

Senator Townsend commented that Mr. Collins's suggestion of "authorization card" may be a good substitute. He further clarified that the word "privilege" is appropriate in the sense that undocumented individuals are not otherwise entitled to or eligible for a driver's license.

Director Cohan stated that if she could change the name of "driver's license" to "driving privilege card," she would.

Senator Townsend acknowledged that this topic brings up sensitive issues and that the Task Force must deal with them. He stated that everyone should feel comfortable weighing in. The Senator further stated that words and classifications matter.

Mr. Collins requested for elaboration on the centralization of information and how the federal government views that information.

Director Cohan stated that she has raised this issue with the Department of Homeland Security. She said that in the worst case scenario, if someone from Immigration wanted information on undocumented persons with driving privilege cards, the DMV would have to provide that information. Director Cohan is not sure what they would do with the information, and does not necessarily think this will happen; however, that is a concern of hers.

Javier Torrijos, chair of the Delaware Hispanic Commission, asked if in the history of the Delaware DMV has there been a request for information from a federal agency.

Director Cohan responded that the DMV has been good at deflecting requests. For example, the Department of Justice

(DOJ) requested all information on people in a certain age range to be used for recruitment for the military. The DMV was effective in this instance in declining, but if the DOJ had pushed the issue, the DMV would have had to surrender that information. She stated that that has happened for other purposes.

Senator Townsend asked why the DMV would be compelled to release that information.

Director Cohan stated that it is because the request is coming from the federal government. She did cite Title 21 § 305, regarding privacy of customers, in rejecting the federal government's request, but there is precedent for federal agencies to receive information from the DMV. Director Cohan noted citing privacy of customers has worked in the past.

Ms. Calvachi-Mateyko pointed out the difference of Homeland Security asking for information about an entire group of people, rather than one individual who poses a specific threat.

Ana Velasquez, Director of Prevention and Advocacy for the Latin American Community Center (LACC), asked if the state could include something in the bill to prevent the federal government from obtaining information collected for driving privilege cards.

Director Cohan responded that they could put that in the bill, and other states have done so, but federal law may trump state law.

Ms. Gottschalk cited an example from implementing the medical marijuana program, and how the federal government probably will not arrest state employees who implement the program, but the federal government isn't willing to promise that.

Senator Townsend acknowledged the sensitivity of these issues and stated that he is interested in what the Attorney General's office and law enforcement have to say. The Senator stated that it would be helpful to give agencies a heads up on the issues so that answers to specific questions can be collected and reported at future meetings. He further stated that he is interested to learn how much the federal government can influence Delaware's action on this issue. The Senator then invited others to share pressing concerns.

Mr. Collins stated that in creating a database of information to monitor prescription drug use, the bar was set high for other agencies to access information. He specifically mentioned related criminal investigations as a consideration for releasing such information. He suggested

setting a similarly high bar for the purposes of issuing driving privilege cards.

Director Cohan suggested that the Task Force could mirror the language of Title 21 § 305.

Senator Townsend provided an example of how to word language to express that state employees “who are in the care of this information shall not disclose it except in the following circumstance.” The underlying idea is that the federal government cannot ask for information just because it is the federal government.

Sean Lugg, Deputy Attorney General, cautioned the Task Force that the DMV should be careful about wording since a lot of the DMV’s work is funded through the federal government by specific pieces of legislation.

Senator Townsend provided an example of Mr. Lugg’s statement, citing how federal highway funds are tied to the legal drinking age in the states. An additional example is federal education funding, which can depend on whether states do certain things. The Senator stated that it is important to determine what issues on the federal level are implicated by driving privilege cards. He commented that it seemed like the federal government was going to address the issue of more comprehensive immigration reform, but currently there has not been a lot of action on it.

Raymond Holcomb, Delaware State Homeland Security Advisor, asked whether the evidence from the states that have implemented driving privilege cards is clear regarding the public safety benefit.

Director Cohan responded it is unclear. Some states are seeing benefits, while others are not seeing benefits. That is why Director Cohan thinks the Task Force is a good idea, as opposed to moving forward with legislation. No state has found a direct correlation between driving privilege cards and increased public safety. A study in California suggests such a correlation, but the effect has not been realized.

Bryan Cochran, representing the insurance industry, stated some of the uncertainty is due to the fact that the issue is so new. The private insurance industry, for example, is not yet prepared to take a stance on the issue.

Director Cohan asked if a major insurance company would provide insurance for a person with a driving privilege card.

Mr. Cochran responded that a major insurance company would. He stated that currently all one needs to provide in order to obtain insurance is a valid driver’s license from one’s

country of origin. A green card is not necessary. Insurance is provided for a period of one year when a valid foreign driver’s license is provided. The industry wants to insure as many motorists as possible.

Representative Bennett asked whether an insured motorist with a driving privilege card can legally avoid paying fines if he/she gets into an automobile accident.

Mr. Cochran responded that an insurance contract does not depend upon citizenship. In the case of an accident with an undocumented, insured motorist with a driving privilege card, the insurance contract would be honored. Furthermore, the insurance industry is well aware of the demographics of the United States.

Senator Townsend stated that there has been discussion of crafting legislation that would clearly override insurance policies. The Senator said that he could see language in a policy that would dictate that an undocumented person was not actually entitled to “x, y, or z,” therefore an exclusion clause would go into effect.

Mr. Cochran reiterated that the industry already insures people from other countries as long as they have a driver’s license from their home country. Companies do not inquire as to whether motorists are in the U.S. legally.

Director Cohan stated that there have been individuals in Delaware with non-compliant driver’s licenses that have been denied coverage by certain companies.

Senator Townsend asked if that occurred at the time of trying to purchase the policy.

Director Cohan responded not saying it is right but reiterating, agencies have denied coverage in the past.

Mr. Reed stated that there have been claims on the internet of people paying insurance premiums and then being denied claims because they lacked a driver’s license. Mr. Reed does not know how true that is. He believes that language in the contract should uphold.

Representative Bennett clarified she was not trying to say that there have been cases of motorists avoiding fines, she was simply asking about a hypothetical situation.

Mr. Reed repeated that the insurance industry is very aware of emerging markets.

Representative Bennett stated her concern was with smaller insurance companies, as opposed to larger ones.

Senator Townsend stated it is important to keep in mind how the market will unfold, which is a great reason to have the private insurance companies and Insurance Commissioner represented here, as well as Representative Bennett.

Representative Bennett stated the importance of having the LACC present as well.

Ms. Calvachi-Mateyko stated the need for creating a legal framework for undocumented persons to drive. She said that there are many Latinos in the Georgetown area who thought that in purchasing car insurance, they were legally allowed to drive in Delaware.

Director Cohan stated that there are unscrupulous individuals who prey on undocumented individuals. For example, they rent vehicles or say they are providing insurance when really they aren't.

Mr. Torrijos mentioned the challenge of the cost of insurance, as well as the burden to the judicial system. He inquired as to whether there is cost information since any legislation coming out of the Task Force would require a fiscal note. At the same time he acknowledged that there could be fiscal relief in other areas.

Director Cohan responded that she does not have those numbers yet, but that the DMV will recoup their costs over time. There will be an upfront cost, though.

Senator Townsend stated in hindsight it would have been helpful to have a member of the judiciary on the Task Force, but that there were already so many members. The Senator said that if he had known that a few Task Force representatives were going to decline, he would have asked a judiciary member to participate. However, the Senator said he is sure the judiciary will be willing to work on figuring out cost-savings information.

Mr. Somalo echoed the concerns of the word "privilege" being politically incorrect, and suggested that if the state of Delaware is going to serve as a model for other states, it would be helpful to find a different word to use.

Ms. Calvachi-Mateyko stated that the word "privilege" is tied to issues of immigration, and sends a message that the card is something that individuals are not normally supposed to have. That line of thinking distracts from the real purpose of issuing the cards, which is safety on the roads.

Senator Townsend stated that the Task Force should think about at what point they should take action on the language used. The Task Force should move in the direction of finding out whether they can have any type of card, regardless of the

language used. However, the Senator said he does not want to dismiss the issue of language because it is important.

Ms. Velasquez stated that the LACC did a survey of the undocumented community to see if they would be willing to try to obtain driving privilege cards knowing that they would be at risk of being identified and possibly targeted. Out of almost 1,600 respondents who are undocumented, 93% indicated they would pursue getting a card knowing that it only applies to driving in Delaware and only authorizes driving. 84% of respondents would be willing to pursue such cards knowing that they cannot be used for official identification purposes.

She further stated that there may be some confusion over using the cards for identification; for example, while the cards would definitely not be federally compliant and be suitable for boarding airplanes, they would still show identity and possibly be used at the library. She believes this is something that can be further explored.

Additionally, 76% of survey respondents said they would get a card even if it looked markedly different than a driver's license. 96% of respondents would get a card if it looked very similar to a driver's license, but was marked "not for identification purposes."

Overall, the community is willing to pursue cards if they become available. Furthermore, evidence indicates that the undocumented community is willing to obtain whatever they can. For instance, if they can obtain insurance but not a license, they will go through with getting insurance. The community wants to come out of the shadows and do things legally.

Senator Townsend commented that while some people view undocumented immigrants as lawbreakers, anyone who has driven over the speed limit has broken the law too. The Senator stated that he recently went on a ride along with the Wilmington Police Department and spoke to police officers who indicated that in situations in which they pull over suspected undocumented immigrants, they would like to be able to see their names and addresses to help determine whether there is reason to suspect that the individuals are wanted for any crimes. This begs the question of who would be able to access the database of undocumented persons with driving privilege cards. The Senator asked whether other states have allowed law enforcement to access such databases.

Director Cohan stated that if law enforcement had access to the database it would be treated the same way as the database for driver's licenses. The police would run the driver's card number and be able to see the driver's name and address. This could potentially help the situation by reducing

fears and the urge for an undocumented motorist to flee from a stop.

Senator Townsend asked if law enforcement or Homeland Security had a say in this. He further indicated that he would like to hear from the Hispanic community to see if this issue is a nonstarter.

Major Melissa Zebley stated it is easier for first responders to see identification credentials during any type of encounter, including accidents and traffic stops. She stressed that implementation is important, as is avoiding the mistakes that have arisen in other states. She further stated that even though the DMV would not be vetting the identities of those issued driving privilege cards, it would be helpful to know that an individual's card was legitimately issued by the DMV. Additionally, she noted the public safety benefit of implementing driving privilege cards.

Senator Townsend asked what currently happens when a vehicle is stopped and an undocumented individual has no credentials.

Major Zebley responded that it depends on the scenario, for example whether there is a crash. Procedures are still carried out and tickets may be issued, which can be frustrating for the individual and result in greater issues down the road for insurance related reasons. Driving privilege cards could mitigate this issue.

Senator Townsend asked what would happen if the incident justifies incarceration and the individual has no form of identification.

Major Zebley responded that a lot of other entities would become involved in the situation to try to establish identity as best as possible. The Major noted that in the past two years, with help of some people present, law enforcement has been able to increase language services for the Hispanic community. Even with such services, a scenario in which no identification is available requires a lot of extra resources.

Mr. Torrijos commented that facial recognition provides some level of identification, even if the cards cannot be used for official identification purposes.

Director Cohan agreed and pointed out that whoever an individual presents themselves as when they apply for a driving privilege card is how they will be identified in the database. Facial recognition will ensure that when an individual renews their card they do not try to use a different name.

Mr. Torrijos followed Director Cohan's statement by

asking whether that helps law enforcement when trying to identify people within a database.

Major Zebley responded that it would help, even though the identities of undocumented persons with driving privilege cards are not vetted to the same extent as those with driver's licenses.

Mr. Torrijos stated that the biggest fear in the community is that the information on their cards, regardless of what they are called, would be reported to Immigration and Customs Enforcement (ICE), or Homeland Security.

Ms. Velasquez stated that of those survey respondents who indicated they would not pursue a driving privilege card, 40% would not do so out of fear of being identified or targeted by the police. This fear exists every day in every aspect of life. Most people would prefer to have a way to safely drive their kids to school and to go to work, and so they would risk pursuing a card. A small segment of the population would not take that risk.

Darlene Battle, leadership of the Delaware Alliance for Community Advancement (DACA), stated that there is language that has been used in other states, called the Trust Act, which stipulates that law enforcement cannot turn individuals over to ICE. Ms. Battle indicated that Delaware could utilize this language, and that she could bring the language with her to the next meeting.

Senator Townsend stated this brings back the issue of whether such language crafted into legislation can be enforced since the federal government has more say than the State.

Mr. Holcomb stated that this issue has been litigated in other states, and it has been found that a traffic stop cannot be used to deport someone with undocumented status.

Mr. Somalo stated that the reality is different, and that it happens in many municipalities.

Mr. Holcomb stated that Homeland Security is trying to achieve two objectives. One is to protect citizens of Delaware. If the Department does not see the public safety benefit of issuing driving privilege cards, then they will question the policy. Secondly, the Department is concerned about security and the inappropriate use of these cards for identification purposes. He further stated that such cards should be clearly distinguishable from driver's licenses. If there isn't a clear enough distinction, then there is the potential for unscrupulous individuals to use the cards to gain access to certain things. He stated that if the cards do not look different, then there will be problems.

Senator Townsend asked whether significantly differentiating driving privilege cards would violate the Real ID Act.

Director Cohan responded that it would not violate the Real ID Act. She referred to a mockup of a driving privilege card and indicated that although it looks similar to a driver's license, the colors would be different, the classification is different, and there is strong verbiage on it. When law enforcement would run the cards they would see that they are a different classification. Director Cohan also noted that a lot of color schemes have already been used for different types of licenses, such as CDLs.

Senator Townsend asked for clarification of the pressure implied by the Real ID Act.

Director Cohan responded that there is no pressure from the Real ID Act in the case of driving privilege cards because they are not intended to be compliant driver's licenses. Director Cohan stressed that the DMV would want to keep the same level of card security features that driver's licenses have.

Mr. Torrijos stated it is important for the Task Force to know what happens when law enforcement stops an undocumented individual, and whether they have a responsibility to report to Immigration and Customs Enforcement (ICE) or Homeland Security. Additionally, this information needs to be conveyed to the community if driving privilege cards are issued.

Mr. Holcomb reiterated that a number of states have litigated the issue. Several states tried to pass a law that would require law enforcement to report undocumented individuals to ICE, but those laws were overturned.

Mr. Torrijos asked for clarification that such reporting laws have not been allowed.

Mr. Holcomb confirmed that laws that have attempted to require reporting have not stood up in court.

Mr. Torrijos asked if there is a memorandum of understanding between the Department of Justice, law enforcement, and Homeland Security.

Mr. Holcomb said he was not aware of such a memorandum.

Mr. Lugg stated his understanding of the statutes Mr. Holcomb mentioned imposes a duty upon law enforcement to report to federal agencies, rather than permission to report,

which raises a separate question of whether law enforcement can report even if they are not required to. In cases in which an undocumented individual has already been flagged for something else and is arrested, the severity of the offense and the severity of the flag will matter in terms of reporting. Mr. Lugg does not know whether a police officer who pulls over undocumented person for a simple traffic violation could report that person to ICE. He stated that he believes Mr. Holcomb is saying the statute cannot mandate reporting, and commented that Delaware would probably not have the resources to comply with such a mandate. Mr. Lugg then cited an example of when he could see an arrest being made during a traffic stop, specifically: if an individual had a felony offense and had unlawfully returned to the country after having been removed from the country once before. However, he does not think that a lot of undocumented individuals are being pulled over for more than just a traffic citation.

Ms. Calvachi-Mateyko stated she accompanied an individual when they received a traffic violation and called a La Esperanza lawyer for that person. The lawyer stated the person had to come in immediately after receiving their first ticket, because after receiving a second ticket a judge can decide to sentence the individual to prison. After a fourth traffic violation the judge can use discretion to charge a person with habitual criminal behavior. Luckily in the case Ms. Calvachi-Mateyko witnessed, the individual was able to pay a fine. However, Ms. Calvachi-Mateyko noted that the reality is that just through traffic violations undocumented immigrants can become part of the criminal justice system, and could be deported.

Mr. Lugg responded there are certain traffic offenses that carry punishment of a certain level that would trigger certain consequences. It used to be felonies, crimes of certain moral turpitude, and punishments that were beyond a year; however, ICE continues to change what they look at. Mr. Lugg clarified that there are two types of habitual offenders. The one relevant to the Task Force is a Title 21 traffic habitual offender, which is a person who accumulates a certain number of traffic offenses; either a substantial number of lesser offenses, or a smaller number of more serious offenses. If any habitual offender, undocumented or documented, drives after being designated a habitual offender, they face a severe punishment of 90 days of incarceration, which may trigger certain consequences.

That is different than the other, "3 strikes" type of habitual offender that is dealt with in the criminal code. There are a lot of anecdotal stories which may or may not be true. People who come into the system will be treated differently based upon the offense committed, rather than who they are and

what their background is.

Ms. Calvachi-Mateyko noted that driving without a license is a crime, which is the problem the Task Force is trying to address.

Mr. Lugg responded that over time a person that drives without a license could be designated a habitual offender. At that point if the person were to drive again, regardless of background, that person would face serious consequences.

Senator Marshall complimented everyone at the table and stated that the resources available to the Task Force can move the issue forward. Delaware was recognized as a leading state in voter participation through the DMV. Senator Marshall stated that in a few months the Task Force should create legislation and pilot a program. The Senator is in favor of creating a friendly card, terming it whatever is agreeable, piloting it, and working out minute details from there.

Claudia Pena Porretti, Executive Director of La Esperanza, echoed what others said and commented that at La Esperanza, the types of cases they see is wide ranging. This includes people being pulled over and not being ticketed, to someone being stopped, driving again, and having ICE waiting with law enforcement to stop that person again. La Esperanza saw an increase in traffic stops over this past summer. In response, La Esperanza came up with a plan to work with the judiciary. She stated that it depends on the law enforcement officer. Depending on the officer involved, there are many traffic stops of undocumented individuals. La Esperanza informs their clients that after so many traffic stops it becomes a felony, which is not good for future immigration reform. She stated that the majority of the community downstate would prefer to have a driving privilege card, and that most of them are not getting stopped. They want to be able to get to school and work. Some people are stopped over and over again, and in some cases just because they do not have a license.

She stated that a member of the judiciary wanted to know how undocumented individuals are able to obtain insurance and vehicle registration without a license. She also voiced concerns over the written portion of the test, since a lot of La Esperanza's clients don't speak English, and in some cases, Spanish is not their first language.

Director Cohan responded that the test is offered in Spanish, but that the dialect is very academic. The DMV does offer the test as an oral exam. However there is a high rate of cheating on the oral exams.

Ms. Porretti said that fortunately most of her clients do not end up in Dover in ICE custody, however some do. This

is known as "catch and release," and can be an overwhelming experience when individuals' families do not know where they are.

Mr. Reed stated that while he wants to echo what Senator Marshall and Claudia said, he thinks Delaware should approach the problem in a smart rather than fast way in order to be an example of how to do it right. The Task Force needs to take unintended consequences into consideration, such as how insurance might rate individuals if they know they own a house. Mr. Reed also noted that cards would provide dignity to undocumented individuals.

Senator Townsend then invited further questions. As there were none, the Senator invited the public to comment.

#### PUBLIC COMMENT

Reverend Carlos Ochoa stated that he has a Parish in New Castle County and that every day he works with Spanish speaking parishioners who seek a better life in Delaware. There are almost 100,000 Hispanic people in Delaware. There are 10 parishes in Delaware that have Spanish services, and they try to help out with resources. Reverend Ochoa noted that he works not only for the Hispanic population but the whole community. Education is necessary, and there are too many people being taken advantage of. The Reverend noted that some people speak dialects and don't know Spanish. Families are suffering. The parish is working with the Mexican Consulate, which is receptive to issuing passports and facilitating the implementation of driving privilege cards.

Kevin Adrade thanked the members of the Task Force for addressing the issue, and stated that whether a person is documented or not, they are still human. He pointed out the children of undocumented people will have more and more votes in the near future. The issue needs to be addressed now. He also stated that in Maryland there are training sessions designed to educate undocumented immigrants who may not read or write Spanish. These sessions are successful. Whatever needs to be done in the Hispanic community to successfully educate, test, and provide cards to undocumented persons should be done. This could include classes through churches and media.

#### CONCLUSION

Senator Townsend stated he would like to rotate locations between Buena Vista and Legislative Hall, noting Director Cohan has offered space at the DMV in Dover to hold meetings as well. The Senator echoed Senator Marshall's statement about getting things done but also doing them right. He does not want to just pass a bill, but instead wants to think through all the implications. He would like the

Task Force to be able to have solid recommendations in a report to give to the General Assembly. Senator Townsend understands this will take time.

The meeting was adjourned at 6:28 pm.

# Minutes of the Undocumented Motorist Safety & Insurance Task Force Meeting of April 2, 2014

Senate Hearing Room, Legislative Hall, 5:30–7:30 p.m.

## Task Force Members: Present:

Senator Bryan Townsend  
Representative Joseph Miro  
Javier Torrijos  
Matthew Heckels  
Major Melissa Zebley  
Sean Lugg  
Claudia Peña Porretti  
Bryan Cochran  
Karen Weldin Stewart

Representative Helene Keeley  
James Collins  
Rosario Calvachi-Mateyko  
Raymond Holcomb  
Jennifer Cohan  
Ana Velasquez  
Jose Somalo  
Darlene Battle

## Absent:

Senator Robert Marshall  
Representative Andria Bennett  
Chief William Topping  
Pastor Jeremias Rojas

Senator Brian Pettyjohn  
Deborah Gottschalk, Esq.  
Keyla Rivero-Rodriguez  
Judy Diogo

## Staff:

Michelle Zdeb  
Mariclaire Luciano (representing Senator Marshall)

Caitlin Del Collo

## Attendees:

Andrew Meehan, CSDL  
Kevin Andrade, Maxima  
Gene Reed, Del. Dept. of Insurance  
Jason Vanderschel, DMV  
Scott Vien, DMV  
Jen Rini, Delaware State News

Brian Zimmer, CSDL  
Rhonda West, Del. Dept. of Insurance  
Kami Beers, DMV  
Olivia Lawson, DMV  
Drew Fennell, Office of the Governor  
James Dawson, Delaware Public Media

The Task Force meeting was brought to order at 5:38 p.m.

\* \* \*

## INTRODUCTIONS

Senator Townsend, co-chair, thanked the members of the Task Force and public for attending the meeting. The Senator gave recognition to Michelle Zdeb, Legislative Assistant, for her efforts with the Task Force. He then introduced Caitlin Del Collo, Legislative Fellow, and thanked her and Ms. Zdeb for their preparations for today's meeting. Senator Townsend

then introduced the first item on the agenda: consideration of Task Force Meeting Minutes.

## CONSIDERATION OF TASK FORCE MEETING MINUTES

Senator Townsend stated the Minutes were circulated to Task Force members last week and asked if any members

had changes they wanted to make. Seeing no changes, the Senator asked for a motion to approve the Meeting Minutes.

Javier Torrijos, Chair of the Delaware Hispanic Commission, moved to approve the Meeting Minutes.

Bryan Cochran, on behalf of the insurance industry, seconded the motion to approve the Meeting Minutes. Senator Townsend asked for all in favor of approving the Minutes to say "aye," then asked if anyone opposed.

The Meeting Minutes were approved, with all members in favor.

Senator Townsend thanked the staff at the Division of Motor Vehicles (DMV) for translating the Meeting Minutes into Spanish. The Senator explained that the Minutes were translated in order to encourage public participation among the Spanish-speaking community, which represents a large percentage of the people affected by the issue before the Task Force. Senator Townsend acknowledged that communities of other races, ethnicities, and languages are also affected by the issue.

#### PRESENTATION BY DEPARTMENT OF SAFETY AND HOMELAND SECURITY

Senator Townsend invited Task Force member Raymond Holcomb to provide a presentation on behalf of the Department of Safety & Homeland Security.

Raymond Holcomb stated that although he cannot speak for Immigration & Customs Enforcement (ICE), generally ICE encourages law enforcement to contact ICE's 24-hour hotline in the event that an undocumented individual is detained for a criminal offense. In such situations ICE will attempt to issue a detainer to hold the individual over for deportation. While this is the official position of ICE, Mr. Holcomb cannot comment on whether that happens in every instance.

Rosario Calvechi-Mateyko, co-chair of the Delaware Hispanic Commission, asked whether ICE's policy is mandated by law.

Mr. Holcomb responded it is not mandated, but strongly encouraged.

Mr. Torrijos asked whether criminal offenses include all traffic violations.

Mr. Holcomb responded that a traffic violation would have to be a serious, criminal violation in order to be considered a criminal offense.

Ms. Calvechi-Mateyko asked if driving without a license is considered a serious violation.

Mr. Holcomb responded it is not a serious violation.

Senator Townsend acknowledged that there were a number of legal issues raised at the first meeting, which he hopes can be addressed by the Attorney General's office at future meetings.

The Senator stated that the information just provided by Mr. Holcomb on behalf of Homeland Security was clearly important to the Task Force, particularly in terms of the formal and informal relationships between federal, state, and local agencies, and the ways those relationships will impact the structure of legislation or education programs on the issue. Senator Townsend also noted that Representative Keeley, co-chair, had joined the meeting. He then thanked Mr. Holcomb for making himself available and opened the floor for questions.

Ana Velasquez, on behalf of the Latin American Community Center, asked if Homeland Security has any concerns about Delaware proceeding with driving privilege cards.

Mr. Holcomb replied that the Department's greatest concern is the misuse of driving privilege cards for nefarious purposes, including criminal and terrorist related activity. The Department strongly encourages that if driving privilege cards are issued, they are designed to be distinct from driver's licenses and indicate on their face that they cannot be used for identification purposes.

Senator Townsend asked if there were any follow-up questions or additional questions.

Claudia Peña Porretti, on behalf of La Esperanza, referenced Mr. Holcomb's statement that ICE currently encourages law enforcement to contact the ICE hotline, and asked what he anticipates will happen between local law enforcement and ICE if an individual with a driving privilege card is stopped for a traffic violation.

Mr. Holcomb repeated his statement that he cannot speak for ICE, but speculated that if a person is stopped for a low-level, misdemeanor traffic violation; local law enforcement would not call ICE to encourage them to issue a detainer.

Senator Townsend thanked Mr. Holcomb for his response.

#### PRESENTATION BY COALITION FOR A SECURE DRIVER'S LICENSE

Please refer to the attachment to view the PowerPoint slides. A summary of Mr. Meehan's slides is provided below.

Senator Townsend announced the next item on the agenda: a presentation by Andrew Meehan of the Coalition for a Secure Driver's License (CSDL). The Senator thanked Mr. Meehan for coming and mentioned that he attended the previous Task Force meeting. Senator Townsend noted that Director Jennifer Cohan referenced the Coalition for a Secure Driver's License during the first Task Force meeting, and turned the floor over to Mr. Meehan.

Andrew Meehan thanked the Task Force for considering the complicated issue of driving privilege cards. Over the past 24 months, 12 states have begun issuing licenses to undocumented immigrants, and have done so quickly. The Coalition has found that oftentimes the full scope of the issue of driving privilege cards has not been examined prior to passing legislation. As such, the Coalition appreciates the fact that Delaware is taking the time to consider the issue holistically.

Mr. Meehan proceeded to give background on CSDL. The organization was founded in 2001, following the terrorist attacks of 9/11. After the attacks it was realized that driver's licenses are the preferred form of identification; they are used for purposes such as signing a lease and opening a bank account. At the time of the terrorist attacks there was not an organization investigating driver's license fraud, who commits such fraud, and for what purposes. People do not go to the DMV to get a second driver's license for no reason; usually there is fraudulent activity related to other crimes. Many times people obtain a second license because the first one has been suspended or revoked. Multiple DUI convictions, evasion of child support, and wire fraud are other reasons why people try to obtain multiple licenses. In one instance, a woman in New York who had multiple licenses committed Social Security benefits fraud in the amount of \$520,000. In another instance, someone whose license was suspended or revoked due to multiple DUI convictions obtained a CDL license in order to drive a school bus. The Coalition has learned that if fraud is allowed to occur through easily impenetrable practices, it will occur, and for a variety of reasons.

In 2009 CSDL established a State Awards Program recognizing states that take extraordinary measures to prevent identity theft and fraud. Awards are given in four categories: Document Security, National Security, Public Engagement, and Identity Protection. In 2012, Delaware was awarded the Identity Protection Award for taking extra steps, under the leadership of Director Cohan and others at the DMV, to protect the identity of those applying for driver's licenses. Mr. Meehan pointed out that although it is more

difficult for a law-abiding person to obtain a driver's license, it is also more difficult for a criminal to commit fraud. The process in place for obtaining a license is in place for good reasons. At the same time, Mr. Meehan noted that even with the right process in place, one corrupt employee at the DMV can undo the efforts to protect identity.

Another finding from the Coalition is that many DMVs do not work with local law enforcement when they discover multiple identities and licenses. They simply invalidate the licenses. At that point, the damage is already done, because the multiple documents, which appear legitimate, are already in circulation. In contrast, Delaware has a good record for working with law enforcement to investigate fraud.

The process for obtaining a driver's license or identification card is based upon a layered system of multiple documents. No one document is absolutely secure, so by providing multiple documents with identifiable security features, and verifying the documents with the issuing agencies, a higher level of security is achieved.

The challenge with foreign documents is that it is more difficult to spot fake ones, particularly foreign passports. It is difficult to verify foreign passports with the issuing agencies, and to recognize them if you are not familiar with what authentic foreign passports should look like. DMV workers are used to seeing U.S. passports and can identify forged ones, but the same is not true for foreign passports. This challenge can be mitigated through training and providing templates of foreign passports; however, this would require more resources and lengthen the process.

Nevada is the only state that currently utilizes the layered system for driving privilege cards. They ask for consular identification cards and foreign passports. Consular identification cards can be problematic; both the FBI and the Government Accountability Office (GAO) have testified before Congress that Mexican consular cards are easy to obtain fraudulently. The GAO found in some instances that one could fill out a survey, pay \$25, and receive the document. The FBI has noted that the security features of Mexican consular cards are easy to counterfeit. The Mexican Embassy in Vermont has provided briefings, but the Coalition hasn't been able to verify if the features are state-of-the-art.

There is no good way to electronically verify the authenticity of foreign documents. Mr. Meehan noted the Delaware DMV can verify his passport with the U.S. State Department, including his name, birthdate, and the passport number. This constitutes an important layer of security. All 11 states that currently issue driving privilege cards require either a consular identification card or a foreign passport.

The Coalition recommends that the Task Force allow the DMV to decide which documents to require for issuing driving privilege cards. That would allow the DMV to decide which documents are secure and communicate with different embassies about consular cards.

There are 180 consulates in the U.S., many of which issue consular cards with varying levels of security features. A blanket mandate to accept all consular cards would lack precision since not all consular cards are equally secure.

Mr. Meehan then proceeded to discuss the appearance of driving privilege cards in other states. He commented that Nevada issues driving privilege cards that are visually distinct from driver's licenses and are marked "not valid for identification." The card issued in Illinois is visually distinguishable, is a different color than the driver's license, and is marked "not valid for identification." The Utah driving privilege card is similarly distinct from a driver's license and is marked "not valid for identification," and "driving privilege only." These cards allow Transportation Security Administration (TSA) and other federal level agents to see that a card does not meet the requirements of the Real ID Act and therefore cannot be accepted for official purposes.

Mr. Meehan commented that the Real ID Act is federal law and is a requirement. He then concluded his presentation and asked if there were any questions.

Mr. Torrijos asked whether the Coalition has found one card among the states which issue them that is preferable in terms of security features.

Mr. Meehan clarified Mr. Torrijos's question about the relationship between physical security of the cards and the level of fraud. He commented that the challenge in generalizing the relationship is that, with the exception of Washington, New Mexico, and Utah, the states have not been issuing the cards for very long. He added that Washington, New Mexico and Utah have seen a lot of fraud. Illinois has only been issuing Temporary Visitor Driver's Licenses (TVDLs) since January 1, 2014; since that time they have issued 15,000 TVDLs. However, undocumented immigrant applicants are included with all other non-citizens in the count of TVDLs. The FDC and Department of Justice simply do not track driver's license fraud. There have been some cases in Nevada in which individuals attempted to obtain driving privilege cards but did not because the documents did not hold up. Overall, however, it will take time for cases to come forward in order to establish the relationship between card security and fraud.

Director Cohan, representing the Delaware Division of Motor Vehicles, commented that while Washington, New

Mexico, and Utah have all had problems with fraud, Utah has experienced the least amount of fraud.

Mr. Torrijos asked the Director why it is that Utah has experienced the least amount of fraud of those states that have had driving privilege cards the longest.

Director Cohan responded she does not know why.

Mr. Meehan stated it is easy to obtain many of the accepted documents for driving privilege cards. He continued that one of the most common types of driver's license fraud is when an individual with an invalid license uses a different identity to obtain a new driver's license. This includes cases in which a person's license has been rendered invalid due to multiple DUIs, tickets, evasion of child support, etc. The bottom line is that these people shouldn't have been on the road, but still needed to be (for work, school, etc.), and so they used a different identity to get a new license.

Commissioner Stewart, representing the Delaware Department of Insurance, shared when she applied for a passport she did not have a birth certificate to produce. Instead, she provided her baptismal record, which was accepted by the agency.

Director Cohan replied that therein lies one of the problems with passports: it is more difficult to get a driver's license in a Real ID compliant state than it is to get a passport. Further complicating the problem is the fact that one of the documents needed to obtain a passport is a driver's license.

Ms. Calvachi-Mateyko, referencing information she read previously, stated that the Mexican consulate requires the following documents for a consular card: a photo ID, and either a voter registration card, passport, or military service card. If an applicant cannot provide these documents the consulate confirms the applicants' identity by investigating his or her background using authorities in Mexico. Additionally, an applicant must provide proof of residence, an example of which is a utility bill. Then this information is sent to the Central Registry in Mexico. Ms. Calvechi-Mateyko stated that the cards can be verified.

Ms. Calvechi-Mateyko shared that many years ago it was easy to get a consular card, but now it is not. She then stated that part of the problem is how states close to the border have gone about issuing driving privilege cards; they made a mistake in just giving them out, so of course fraud has occurred. Delaware is in a different situation because the state is not close to the border and is learning from other states' experiences.

Ms. Peña Porretti asked if a passport has to be current

and unexpired to be accepted as a document.

Scott Vien, on behalf of Task Force member Director Cohan of the DMV, replied passports must be current and unexpired.

Ms. Peña Porretti responded there are a lot of people in Sussex County whose passports are expired. This creates problems when trying to register children in school. As a result, staff members from La Esperanza continually have to go to schools with clients to request that their children be registered despite having expired documentation. It is difficult for people with undocumented status to obtain a valid passport.

Mr. Meehan responded that the challenge is that nine times out of ten people applying for cards are not committing fraud. However, the system needs to be layered so that identities can be verified by the issuing agencies. He noted that the Delaware DMV has an automatic system that electronically dials the Social Security Administration and State Department to verify documents. Those systems do not exist for foreign documents. In the cases of Utah and Mexico, their offices have relationships with the local consulate offices in which they conduct a thorough review to verify documents. This is a time-consuming process and would likely add to wait times at the DMV.

Ms. Peña Porretti asked Mr. Meehan if his recommendation is to use both the consular card and the passport for identification, rather than just one document or the other.

Mr. Meehan responded he would not recommend using a consular card for identification without reviewing the specific government from which it is issued and the ability of the DMV to confirm the document electronically, which currently does not exist. Further, the identity threshold for obtaining a driver's license is higher than what it is for a driving privilege card.

Ms. Peña Porretti asked if Mr. Meehan has seen a large population of people with expired passports trying to obtain driving privilege cards, and if so how was that dealt with.

Mr. Meehan replied the Coalition has not had to look at large groups of people with expired passports. He added that a few years ago the I-9 requirements were updated to include the words "unexpired license" and "unexpired passport." That changed significantly, however, when the final regulation went through without a problem. Employers had to educate their Human Resources personnel that they could no longer accept expired documents. Mr. Meehan does not think the large unemployment numbers can be attributed to this change.

Mr. Torrijos asked what form of identification Mr. Meehan would recommend for the State of Delaware to accept for applications for driving privilege cards.

Mr. Meehan referred to his superior, Brian Zimmer, who has generated a comprehensive list of documents, including the Mexican voter ID card, which is issued by a third-party commission, is secure, and is difficult to obtain fraudulently.

Brian Zimmer elaborated, stating the demand for unexpired passports is due to the fact that there is a large underground market for expired passports, which began for U.S. citizens. There are brokers and networks in the market, and people are given expired passports that resemble their appearance. This allows people to evade child support, alimony, banks pursuing foreclosure, etc.

Mr. Zimmer cited an example of the man in Boston who was convicted of numerous murders; the man had multiple, valid yet expired passports and licenses, which made it difficult to catch him. There have also been hundreds of cases of ex-mafia members being found alive after having been certified dead because they used fraudulent passports.

There are four or five states that are still incredibly lax on the issue, although Delaware is not among them. The foreign embassies for Delaware are located in D.C. Some of them, including the Mexican Embassy, arrange to provide passports to their citizens in your locale on a rotating basis. Mr. Zimmer stated the number one document he recommends is an unexpired passport from an individual's originating country.

Representative Miro asked what the criteria is for being issued an international license.

Mr. Meehan responded there is not an international license that is universally recognized. However, the American Automobile Association (AAA) offers certified translations of driver's licenses. Additionally, there are agreements between South Korea and a number of states recognizing valid driver's licenses.

Representative Miro asked if any of the states have such a license.

Mr. Meehan stated that such a license does not exist.

Representative Miro responded that when he travels to Europe or certain places in South America, such as Chile and Argentina, he can get an international license. But if someone from those countries comes to the U.S., they cannot get a license, even if it is temporary.

Director Cohan clarified that in the United States there is no such thing as an international license. Currently Delaware has reciprocity with France and Germany, and is working on establishing reciprocity with Denmark. Other states have reciprocity agreements with other countries. If you search for “international driver’s license” online a website will show up; however, it is not legitimate. The DMV is having a hard time educating people about this.

Representative Miro said that Americans can go to some other countries and obtain a temporary license or permit to operate a vehicle.

Director Cohan emphasized that those permits are temporary.

Mr. Meehan illustrated the challenge of issuing an international license by asking Task Force members to consider how hard it would be to apply for a national driver’s license that tests knowledge and familiarity with the rules of all 50 states, plus the U.S. territories. Such a process would be exhausting.

Representative Miro requested Mr. Meehan clarify his point.

Mr. Meehan clarified that by comparison, a driver’s license that tests for knowledge of driving rules in more than one country would be exhausting.

Representative Miro indicated he does not share Mr. Meehan’s view.

Ms. Calvachi-Mateyko clarified that when other countries issue temporary licenses, they do not test for driving knowledge; rather, they assume that if you have a license from your home country you are fit to drive. Ms. Calvachi-Mateyko asked if an Ecuadorian citizen visiting the U.S. on a tourist visa for a period of one month can use their home country license to drive.

Director Cohan responded yes.

Ms. Calvachi-Mateyko then stated that it would be lawful for someone on a tourist visa to drive in Delaware with a license from their home country.

Mr. Torrijos asked if one has to get permission from their home country to drive in the United States. He cited the example of his uncle, who went to the American Embassy in Colombia to get permission to drive in the U.S.

Director Cohan stated that as long as the DMV can

validate that someone is in the country on a temporary basis, they are allowed to drive using their home country license. Normally the DMV issues licenses for eight-year periods. If someone is in the country temporarily, she will get a license that is valid for the same length of time that she is authorized to stay in the country.

Mr. Torrijos asked if such a person would get a special license in that case, or use her current license.

Director Cohan responded she will get the same card everyone else gets.

Jose Somalo stated that has been the experience he has had with people visiting.

Ms. Calvachi-Mateyko stated she appreciates the Coalition for coming; however, she has been aware of the Coalition and other national organizations generating fear about fraud. The campaign has been detrimental to immigrants, specifically Latinos. Ms. Calvachi-Mateyko believes the Task Force should be careful, and not let fear prevent the group from coming up with a lawful plan that works.

Director Cohan agreed with Ms. Calvachi-Mateyko’s statement, and said she thinks that is the point of the Task Force: to explore all the issues. She also said that Ms. Calvachi-Mateyko made a good point about border states having certain issues that Delaware does not. However, Delaware had 10,000 cases of multiple identities, 1,300 of which were cases of criminal activity. The Director said she thinks that the Coalition came to the meeting to make the Task Force aware of this problem, not the issue of fraudulent/criminal activity of undocumented immigrants.

Mr. Zimmer offered his thoughts that with the internet it is easy to demonize those with whom you do not agree. He said that there is 10-12 year old information online that attacks the Coalition’s position on driver’s licenses. Currently, however, there is an official position of the Coalition’s Board of Directors supporting the concept of driving privilege cards with safeguards. Mr. Zimmer emphasized that the Coalition supports the Task Force’s mission and wants to educate about the best ways to formulate driving privilege cards. The Coalition thinks Delaware is on the right track. The questions that are being raised by Task Force members are intelligent and on point. The Coalition provided the State of Vermont with a document listing highly reliable documents. They do not want to publish these in order to protect these documents from being targeted. If the DMV wants the Coalition to provide that list to them, they will. Mr. Zimmer concluded that he is delighted to be at the meeting and thinks it is an excellent proceeding.

Senator Townsend thanked Mr. Zimmer, and then invited Commissioner Stewart to speak.

Commissioner Stewart asked if her cousin from Argentina could get a driver's license if she came to work in the U.S. and had a valid Argentinian passport and driver's license.

Director Cohan replied that if that person's visa can be validated, then they could get a regular driver's license.

Commissioner Stewart asked what would happen if her cousin came as a guest visiting the country.

Mr. Vien replied that if someone is just visiting they would not be issued a Delaware driver's license; rather, the person would be able to use their home country license for up to 30 days.

Senator Townsend asked if the Mexican Embassy's rationale behind facilitating the issuance of unexpired passports to Mexicans in America is to help those who are undocumented and have expired passports.

Mr. Zimmer responded that Mexicans represent the largest group of undocumented immigrants in the U.S. He added that some of these individuals only work in the U.S. seasonally. Additionally, Mexico and the U.S. are part of the North American Free Trade Agreement (NAFTA), which provides accommodations to Mexicans in the U.S. that immigrants from Asia or other places would not get. The Mexican legislature has tried to improve U.S. relations by directing their Embassy to reach out to Mexicans living in the U.S. in order to provide two current documents: a passport, and a voter ID card.

Senator Townsend replied he just wanted to confirm whether the aim of the Mexican Embassy's efforts was specific or broad.

Mr. Zimmer responded that there have been a number of reasons for the efforts, but a few years ago the legislature allowed expenditures to make sure that Mexicans in America have passports and can get them renewed easily.

Senator Townsend said he is curious whether, if Delaware were to move forward, it would be possible to facilitate the updating of documents for large groups of immigrants from other countries.

Mr. Zimmer replied there are three countries that go out of their way to make sure their citizens have updated documents at an affordable cost: Mexico, Honduras, and Guatemala.

Darlene Battle, on behalf of the Delaware Alliance for Community Advancement (DACA), referenced the proposed requirements for obtaining a driving privilege card that was presented in the first Task Force meeting. She specifically mentioned having two years of tax forms and being ineligible for a Social Security card. Ms. Battle stated that she thinks the Task Force has gotten away from these proposed requirements.

Senator Townsend acknowledged Ms. Battle's comment, and then invited Ms. Calvachi-Mateyko to speak.

Ms. Calvachi-Mateyko responded to Mr. Zimmer's comments about foreign embassies by stating that although the embassies are spending more money and engaging in more outreach, the process is still more difficult for citizens to get their documents. People have to wait three or four months to get documents. Ms. Calvachi-Mateyko said it would be a good idea to invite Mexican and Ecuadorian consulate agents from Philadelphia to educate the Task Force.

Senator Townsend invited Director Cohan to speak.

Director Cohan asked if a member of the public who wished to speak could do so.

Senator Townsend agreed.

Kevin Andrade stated that consulates from Mexico, Guatemala, and other countries have been visiting communities in Delaware, including Georgetown and Milford. In the next two months

the embassies will be coming to Delmarva to facilitate the issuance of passports. The Mexican and Guatemalan embassies ask for documents such as a birth certificate and another form of ID they obtained in their countries before. It is not a very hard process. Once proper documentation is received, it takes about an hour to create a new passport, which costs about \$90. These processes are secure.

In Delaware approximately 60% of the Hispanic immigrant population is from Mexico; another 20% is from Guatemala.

Senator Townsend thanked Mr. Andrade. The Senator then referenced Ms. Battle's comments and asked Director Cohan about the proposed requirements for issuing a driving privilege card.

Director Cohan responded that the two years of tax forms would be required to establish residency in Delaware. This would help to ensure that Delaware does not experience an influx of non-residents attempting to obtain a driving

privilege card. A valid passport or other document from one's originating country would also be required. The DMV already allows undocumented individuals to own and register a vehicle. The DMV wants to continue this dialogue.

Senator Townsend thanked Director Cohan for the clarification and invited Mr. Torrijos to speak.

Mr. Torrijos stated that everyone in the community wants to ensure that identities are verified and that the identities of Delawareans are not compromised. At the same time it is important to establish a driving privilege card. Mr. Torrijos said he did not know what other forms of ID other than a national voter registration card or valid passport could be used, but the Task Force should look to the DMV and Homeland Security for guidance.

Director Cohan replied she likes the idea of having flexibility to decide which forms of ID to accept; she noted that since the Real ID Act passed, certain forms of ID have become more secure and thus have been added to the list of acceptable documents.

Senator Townsend asked if there were any other questions or comments on the issues that had been discussed. Seeing none, the Senator invited the Department of Insurance to present.

#### PRESENTATION BY DEPARTMENT OF INSURANCE

Commissioner Stewart began the presentation by explaining that she and Deputy Commissioner Gene Reed recently attended a conference for the National Association of Insurance Commissioners (NAIC). Part of the conference entailed working on model laws to be adopted by states. The Commissioner then introduced Mr. Reed and stated he would lead the presentation.

Gene Reed thanked Senator Townsend, the Coalition for a Secure Driver's License and Director Cohan for coming together to make roads safer for all Delawareans. He further thanked them for providing documentation on the creation of the Task Force, which Mr. Reed used to present to a committee at the conference. The presentation was well received. Although the committee did not have questions, they were willing to use the information presented for the Auto Insurance C & D study group, which is chaired by Commissioner Joe Murphy of Massachusetts. The group will include the information in a white paper under a section for "emerging issues." In this way the information will be disseminated to all 50 states and jurisdictions. Mr. Reed said he will continue to work with CSDL to obtain national statistics on undocumented individuals for subsequent presentations on emerging issues.

Once people have a driving privilege card, they will need to obtain insurance in order to drive legally in the State. This will decrease the number of uninsured drivers on the road, and increase the amount of money insurance companies receive. The State will also benefit through the premium tax that is collected on auto insurance.

Mr. Reed cautioned that the availability and affordability of auto insurance needs to be considered. In Delaware companies are not required to write auto insurance. As such, it is likely that drivers with privilege cards will be assigned a level of risk that requires them to pay three or four times more for their premiums. However, the American Insurance Association (AIA) and the Progressive Title Insurance Agency (PTIA) have indicated they would underwrite for such drivers. Mr. Reed said the underlying issue of affordability is the underwriting guidelines companies use. A person who has no driving history in this country and who has not had insurance in the past 30 days could have the same premium as a 16-year-old who purchases his/her own insurance policy. Mr. Reed would like to work with the Coalition to develop a section for the aforementioned white paper so that the issue will be shared nationally. He said that if Senator Townsend concurs, he will present at the next conference meeting in August to educate on the background of the issue and the impact it has had nationally.

Senator Townsend gave his consent and expressed appreciation of the cross pollination presented by the opportunity to present at the next NAIC conference. The Senator then asked if anyone had questions or comments.

Representative Keeley asked if Mr. Cochran had a response to Mr. Reed's remarks about affordability.

Bryan Cochran acknowledged Delaware is an expensive state for auto insurance, and is among the top ten most expensive states. New Castle County is expensive to insure because it is densely populated. The presence of Interstate 95 (I-95) also drives up insurance rates. Additionally, the fact that the overall population of Delaware is small contributes to higher rates, particularly when serious accidents, such as those involving buses, occur. All insurance companies file their rates with the Department of Insurance, which approves the rates before the policies can be sold.

Mr. Cochran stated that the industry is competitive, and the company that does the best will match the price to the needs of its customers. If a company's price is too high, customers will go elsewhere; if a company's price is too low, they will have costs when people submit claims.

Mr. Reed stated Mr. Cochran was correct, and added that premiums are based on expected losses, not the customers'

ability to pay. The Department scrutinizes the rates submitted by insurance companies.

Representative Keeley asked Mr. Cochran about the case Mr. Reed referenced in which an adult with no U.S. driving history applies for insurance.

Mr. Cochran said that when someone with no driving history applies for a policy with State Farm, including adults who have valid driver's licenses from another country, their policy is handled by the standard company for a period of one year, at which point the policy is reevaluated. If the individual has not had any accidents or tickets in the first year, they can get cheaper rates through State Farm Mutual Automobile Insurance Company.

State Farm is trying to better match its prices to customers. One technique to do so involves the use of a device that measures how someone drives. This would benefit drivers who are careful and do not travel long distances, who would be eligible for a discount; however, drivers that travel long distances would not benefit from the device.

Representative Miro asked if it would help to have individuals take a road test.

Mr. Cochran replied that companies assume if a person has a driver's license they qualify to drive and have already taken a road test. The problem is when an individual does not have a driving record in the United States to refer to. Such an individual would be assessed the same as a new driver.

Representative Miro asked if that statement is true even if an individual takes both a written and road test.

Mr. Cochran replied yes.

Representative Miro asked if the policy Mr. Cochran referred to is applicable to all insurance carriers.

Mr. Cochran said he can only speak to State Farm's policies. However, he said he suspects that most companies try to accommodate foreign drivers. He reiterated that the field is competitive, so companies have to do whatever they can to stay competitive. For example, State Farm is trying to accommodate customers who speak other languages.

Senator Townsend asked if the industry or the Department of Insurance can devise a way for adult drivers with no driving history to demonstrate that they do not carry the same level of risk as a new driver, in order to qualify for a lower premium.

Mr. Cochran said he does not know if that can be done,

however, the State has a driver safety course available to the public, which can qualify drivers for an auto insurance discount of up to 15%.

Senator Townsend asked for confirmation that the discount one receives for the driver safety course is smaller than the discount one would get for being an adult, experienced driver.

Mr. Cochran indicated that he believes the Senator is correct.

Senator Townsend said he is curious if something can be done through legislation or working as a Task Force to have an option for people to qualify for a lower premium sooner that better reflects their actual risk. The Senator then referenced Representative Keeley's question about what State Farm and other insurance companies are doing in states that already issue driving privilege cards. Senator Townsend proposed that Mr. Cochran could present on that information at future meetings.

Mr. Cochran replied that those with driving privilege cards in other states are treated like all other drivers.

Senator Townsend asked if that means that those people pay high premiums when they get a policy.

Mr. Cochran replied yes, and added that once those people demonstrate safe driving they are eligible for lower premiums.

Commissioner Stewart informed the Task Force that insurance companies use lineal pricing models that take many factors into account. As such, two neighbors with the same kind of car may pay different insurance rates. There are multiple price points, which take safety features into account.

Senator Townsend said he is curious how far the multiple price points concept can be stretched while still maintaining public safety. The Senator said he would like to hear more from the Department and the industry about what's happening in other states and how Delaware could handle the issue.

The Senator said he wants to make sure that in going through this process, insurance is affordable for drivers with privilege cards. He noted, however, that many people who would benefit from driving privilege cards may have the income to afford insurance. The Senator advised the Task Force that they should not assume that the population is entirely low income. He added that there could be implications for U.S. citizens who, due to the Recession, may struggle with insurance affordability.

Recognizing that several people wished to speak, Senator Townsend invited Representative Miro, Mr. Torrijos, and Mr. Reed to speak, respectively.

Representative Miro said one of the goals for the insurance industry is to insure as many people as possible. If premiums are too high they are not obtainable to the people who need insurance. There needs to be an adjustment for drivers who have experience, however, the Representative does not want to dictate what that should be.

Mr. Cochran agreed with Representative Miro's comment about experience, and elaborated that the experience needs to be verified. It is difficult sometimes to verify someone's passport, so it may be difficult to verify a foreign driver's license as well. Mr. Cochran indicated he has a lot of thoughts about affordability.

Senator Townsend said he would like to give Mr. Cochran time to discuss affordability at a future meeting.

Mr. Cochran said that in order to set the stage for that discussion at the next meeting, he wanted to let everyone know that the State sets the mandatory minimum for insurance coverage.

Senator Townsend reiterated the importance of the topic and his interest in learning more at the next meeting. The Senator then invited Mr. Torrijos to speak.

Mr. Torrijos said one concern is that the community is below the poverty level. He would like to work with the insurance companies. He suggested that the insurance companies or state agencies could offer safety courses to the community at a discounted rate. Some people within the community who are seeking insurance are being taken advantage of. For example, some people are being charged two to three times more for their policies.

Commissioner Stewart responded to Mr. Torrijos's comments by stating that the minimum amount of insurance coverage is set at the current level in order to be affordable for low income drivers.

Mr. Reed added that there is difference between underwriting and actuarially substantiated rates. He surmised that insurance companies probably already have rates figured out for 40 year olds who have not had insurance for the past 30 days, given the number of accidents they have had. He agreed with Mr. Cochran that insurance companies want to be competitive in this emerging market.

Mr. Reed then addressed the use of credit scores in issuing new policies. Credit scores are not allowed to be used

for existing policies, but are allowed for new policies. This could be detrimental to undocumented immigrants who do not have a credit history in the U.S.

Senator Townsend thanked Mr. Reed for his input.

## DISCUSSION OF LEGAL ISSUES

Senator Townsend then introduced the next item on the agenda: discussion of legal issues. He invited Task Force members to discuss what questions they think the Attorney General's Office might be able to answer. He noted that several questions arose at the previous meeting, including whether the federal government can compel the State to provide information. James Collins of the Governor's office suggested looking at language in statutes that stipulate information can only be given to another agency if a criminal matter is being investigated. The Senator invited Task Force members to submit legal questions.

Mr. Torrijos voiced his concern over what would happen if someone with a driving privilege card submitted their card to their employer. Mr. Torrijos specifically wanted to know if an employer would be obligated to contact ICE.

Senator Townsend clarified that they would not necessarily get answers to these questions at this meeting, but would note them for future meetings. The Senator then invited more questions to be aired.

Ms. Velasquez asked if there are other populations that would benefit from driving privilege cards besides undocumented immigrants. If not, then having a driving privilege card would automatically indicate that one is an undocumented immigrant. Ms. Velasquez cited an example of other states that issue the same kind of license to all immigrants, regardless of legal status. Such cards do not automatically imply undocumented status.

Mr. Zimmer explained that in Illinois H1H2 temporary workers have experienced a lot of hardship as a result of being categorized along with other groups of immigrants. A lawsuit has been filed by a group of employers and legal, temporary employees because they are being scrutinized by ICE along with undocumented immigrants who possess the same type of license. The concept of the license is well intentioned but has worked against legal immigrants. If Illinois had put as much time into the creation of its license as Delaware is doing, they would have avoided this unfortunate circumstance.

Ms. Velasquez clarified she was not recommending that type of license, but just making sure the issue is explored.

Director Cohan clarified that driving privilege cards address undocumented immigrants only. All other drivers with any type of legal status are covered by regular driver's licenses.

Ms. Peña Porretti commented that La Esperanza does not anticipate that driving privilege cards will be provided to employers. Some people may not want to self-identify to their employers. Additionally, these people are already working, so they will use the card only for the intended purpose of driving.

Senator Townsend, referencing Mr. Torrijos's concern, noted that there still could be situations in which an employer sees an employee's driving privilege card by accident in the cafeteria. In such situations, the question of employer liability remains.

Mr. Torrijos confirmed that the Senator's statement speaks to his concern. He does not want the driving privilege cards to be used to identify undocumented immigrants to ICE. The community is already afraid. He would want to educate people that employers cannot ask for their driving privilege cards.

Senator Townsend commented that the idea of creating a legislative prohibition on private employers is worth discussing, but is a sensitive topic. The Senator said he does not know if this concept triggers a response from the Attorney General's Office, or if from an employment law standpoint there are statutes that dictate whether an employer must or is able to ask for a document.

Mr. Torrijos responded that his point is that the card is not for identification purposes, only driving, so that is how it should be treated. A license, on the other hand, is a form of identification.

Senator Townsend pointed out the cards would be marked "not for identification" so that banks and other establishments would not use them for verifying identity. That is different than prohibiting employers from asking to see the card. The Senator does not know if that is legal.

Representative Keeley suggested research could be done on how other states with driving privilege cards handle this issue. Representative Keeley then stated that many employers of undocumented immigrants may already know who they are hiring.

Senator Townsend assured that if a system is to be created for driving privilege cards, it will not be set up so that people will be reported to ICE. The Senator then noted that there are employers who rely on undocumented immigrant labor who

are not represented in this process and discussion.

Mr. Torrijos said that is his point. There is an industry in Delaware which relies on undocumented labor. The industry shares his concern about being required to report individuals to ICE.

Commissioner Stewart stated federal law does not allow employers to ask for certain types of ID, and noted that Mr. Reed is well versed on this topic.

Senator Townsend indicated he would like to hear Mr. Reed address this topic at a future meeting within a larger discussion on employment issues.

Mr. Reed raised the issue of reciprocity with other states. He questioned if someone is issued a speeding ticket in a non-reciprocal state, would the stop be reported to Delaware. Another question Mr. Reed brought up was what would happen if an accident occurs on the New Jersey side of the Delaware Memorial Bridge, would that accident be covered by an insurance policy.

Director Cohan said the DMV cannot guarantee reciprocity with any other state.

Mr. Reed referenced again his question of whether insurance companies would be notified of such violations for rating purposes.

Director Cohan responded they would.

Mr. Cochran said the policies are standard. There is no separate policy for drivers with privilege cards, so you would be covered just like everybody else. You would be covered in any other state regardless of whether that state recognizes the driving privilege card.

Ms. Battle stated Delawareans should decide what happens if a person with a driving privilege card gets into an accident in another state, for example, whether the card should be revoked.

Director Cohan said the home rules would apply regardless of where the accident occurs.

Mr. Cochran said if you have an accident in a state other than the one in which you live, the courts will go through a choice of law process to determine which state law(s) best applies to the situation. We can only legislate what will happen in Delaware.

Senator Townsend acknowledged the importance of structuring legislation in Delaware.

## OPEN DISCUSSION BY TASK FORCE

Senator Townsend invited general discussion of Task Force members, and noted that the topic of an education campaign should be discussed at a future meeting.

Mr. Cochran stated there is legislation around the country in other states to “ban the box” on job applications that pertain to past convictions.

Senator Townsend responded that legislation is out of committee and will hopefully be heard on the floor soon. However, this legislation would apply only to state employers.

Mr. Cochran asked if it also applies to business that contract with the State.

Senator Townsend said he does not know; however, he believes that either Wisconsin or Minnesota passed “ban the box” legislation that applies to private employers as well. The Senator does not think that it has been challenged in court. Target has adopted “ban the box” as part of its corporate policy.

The Senator acknowledged that there is precedent to regulate employer behavior, and reiterated Representative Keeley’s comment that most employers of undocumented individuals already know their workers’ status.

Mr. Torrijos referenced the DMV’s proposal to issue driving privilege cards for four-year periods, and asked what would happen if someone’s passport is valid at the time they receive the card, but expires during the four-year period.

Director Cohan asked Mr. Vien to address Mr. Torrijos’s question.

Mr. Vien replied that if a passport expires in the future,

that’s okay. At the time of license renewal, an individual must have a current, valid document.

Senator Townsend asked if there were any other questions or comments.

## PUBLIC COMMENT

Senator Townsend invited public comment.

Mr. Andrade said that he does not think there will be an issue with employers. The IRS already allows people to file under a different name. He does not think people who use different names will use driving privilege cards as identification for work purposes.

Mr. Andrade is concerned, however, about law enforcement response to people with driving privilege cards. There are local police officers in Dagsboro, Oceanview, and Millsboro who ask people what their legal status is when they get pulled over. He does not think this is legal, so the issue should be discussed with the Attorney General’s Office.

An additional concern is secured communities that allow law enforcement to question and fingerprint people suspected of criminal activity. Mr. Andrade would like to see how the Attorney General’s Office would handle this.

There have been hundreds of tickets being issued to undocumented immigrant drivers, many of which are given by a select few police officers in Sussex County. Mr. Andrade is concerned about racial profiling.

Senator Townsend thanked Mr. Andrade for his comment. He further thanked members of the Task Force at large for their participation. The Senator stated that details of the next meeting will be forthcoming.

The meeting was adjourned at 7:26 p.m.

# Minutes of the Undocumented Motorist Safety & Insurance Task Force Meeting of May 13, 2014

Senate Hearing Room, Legislative Hall, 10:00 a.m.–12:00 p.m.

## Meeting Attendance – Task Force Members:

### Present:

Senator Bryan Townsend  
Representative Helene Keeley  
James Collins  
Javier Torrijos  
Major Melissa Zebley  
Jose Somalo  
Darlene Battle

Senator Brian Pettyjohn  
Representative Joseph Miro  
Chief William Topping  
Rosario Calvachi-Mateyko  
Ana Velasquez  
Bryan Cochran  
Pastor Jeremias Rojas

### Absent:

Senator Robert Marshall  
Deborah Gottschalk, Esq.  
Raymond Holcomb  
Judy Diogo  
Claudia Peña Porretti  
Karen Weldin Stewart

Representative Andria Bennett  
Matthew Heckels  
Keyla Rivero-Rodriguez  
Jennifer Cohan  
Sean Lugg

### Staff:

Michelle Zdeb  
Mariclaire Luciano (representing Senator Marshall)

Caitlin Del Collo

### Attendees:

Andrew Meehan, CSDL  
Yarazetd Mendoza-Camargo, Consulate of Mexico  
Rhonda West, DOI

Brian Zimmer, CSDL  
Jorge Tuddon, Consulate of Mexico  
Gene Reed, DOI

The Task Force meeting was brought to order at 10:21a.m.

\* \* \*

## INTRODUCTIONS

Senator Townsend, co-chair, thanked the members of the Task Force and public for attending the meeting. The Senator recognized Michelle Zdeb, Legislative Assistant, for her preparation of the Task Force meeting. Senator Townsend then introduced Caitlin Del Collo, Legislative Fellow, and announced that she would address the first item on the agenda.

## CONSIDERATION OF TASK FORCE MEETING MINUTES

Caitlin Del Collo read in a Memo into the record detailing proposed changes to the Meeting Minutes from the April 2, 2014, Task Force Meeting (See Attachment at the end of the Minutes). The Memo addressed spelling errors to one person's name in the English version of the Minutes, as well as changing a word and a name in the Spanish version of the Minutes.

Senator Townsend asked the Task Force members if there were any other changes that needed to be made to the Minutes.

Jeremias Rojas, Task Force member representing Consejo Pastoral de Delaware (COPAD), indicated his name was misspelled in the Minutes and on his name card.

Senator Townsend apologized for the misspelling.

Gene Reed, on behalf of Insurance Commissioner Stewart, proposed changing the language of his statement on page 13 to reflect that drivers with no driving history in the U.S. “could have” the same rates as new drivers.

Senator Townsend thanked Mr. Reed for the suggestion. The Senator stated he appreciates everyone taking the time to make sure the Minutes are accurate, since they will be promoted as a public record moving forward. The Senator then asked if anyone else had changes to propose. Seeing none, he asked for a motion to approve the Minutes with the changes that Ms. Del Collo read from the memo, as well as Mr. Rojas’s and Mr. Reed’s proposed changes.

Representative Keeley, co-chair, motioned to approve the Minutes.

Senator Pettyjohn, Task Force member, seconded the motion.

The Task Force Meeting Minutes dated April 2, 2014, were approved.

## DISCUSSION OF INSURANCE ISSUES

Senator Townsend invited Bryan Cochran of State Farm to lead the discussion on insurance.

Bryan Cochran, representing the private insurance industry, began by noting that affordability of insurance is an issue for all drivers, not just undocumented drivers, and that it is determined by several major factors. One factor is how densely populated an area is. Individuals living in Wilmington, Delaware, for example, have higher insurance rates than people living in Sussex County due to differences in population density.

Mr. Cochran informed the Task Force that every state except New Hampshire sets a mandatory minimum amount for insurance coverage. He noted that the insurance industry is highly competitive, therefore people can and should compare insurance policies before purchasing one.

One way to reduce insurance premiums is to do research on a vehicle before purchasing, as safety features affect insurance rates. An 18 year old man with a Corvette is more expensive to insure than a 60 year old woman with an F-150. In these examples, age, type of car, and driving history all factor into the insurance rates. Mr. Cochran acknowledged that undocumented drivers are disadvantaged because they do not have a driving record in the U.S. Unfortunately there is no way to prove statistically that an undocumented driver has driven safely in his or her country of origin. Senator Townsend asked Mr. Cochran to see if other states that issue driving privilege cards have attempted to access driving records of undocumented individuals from their home countries. To date there have been no attempts to do so, and it is not clear how to do so.

Mr. Cochran characterized car insurance as a tax on driving. The more expensive one’s car is, the more insurance coverage is required. Many young people only purchase the mandatory minimum amount of insurance coverage. Additionally, comprehensive and collision insurance, which cover damage to vehicles, are optional. These types of insurance are not necessary for a “clunker” car, since any repairs from an accident would cost more than the car is worth.

Deductibles can also be raised to bring down insurance rates. This can be done with liability coverage, which is a required component of insurance coverage. Another component is Personal Injury Protection (PIP), which covers lost wages and medical services. There is a minimum of \$15,000 for PIP coverage. State Farm does not have a deductible for PIP, but some other insurance companies do.

Driver safety courses can bring down insurance rates as well. The first course can reduce insurance by 10%, and the refresher course can reduce rates an additional 5%.

A new technology that can lower rates is a device

that measures how well one drives. State Farm refers to this device as “Smart Drive.” The devices provide real time data to insurance companies including speed, miles of use, etc. State Farm does not penalize drivers if they do not drive “safely” as measured by the device; rather, such drivers would simply be ineligible for the discount associated with the device. The discount varies from company to company, but could be up to 25%.

Senator Townsend explained that the reason insurance affordability is being discussed is because it is part of a genuine effort of the Task Force to make the roads safer in Delaware. The Senator then indicated he would like to address several points raised by Mr. Cochran. One is that no other state has undertaken efforts to factor driving records from other countries into insurance rates for undocumented drivers. Senator Townsend asked how long insurance companies offer the “new driver” rate to undocumented drivers.

Mr. Cochran responded he can only speak for State Farm, which sets their rate for new drivers for a period of three years. State Farm has a Mutual company and a Standard company. New drivers, or those with no driving record, are placed in the Standard Company. After three years, if the driver has not had any tickets or accidents, they qualify to move to the Mutual Company.

Senator Townsend asked if there is any flexibility in that policy.

Mr. Cochran replied there is not.

Senator Townsend asked if the Smart Device could be used to lower rates.

Mr. Cochran said that undocumented drivers can take advantage of the same discounts, including the Smart Device discount, which is available to other drivers.

Senator Townsend asked for confirmation that there is no way to move from a higher range premium to a lower range within the first three years of being insured.

Mr. Cochran confirmed that for State Farm, there is no way to lower the rate within the first three years.

Senator Townsend restated Mr. Cochran’s assertion that no states have taken measures to provide less

expensive premiums to undocumented drivers who otherwise would have lower premiums due to driving experience.

Mr. Cochran confirmed this, stating that he has no knowledge of any states being able to verify driving records from any foreign countries.

Representative Keeley asked Mr. Cochran if he is aware of any insurance companies in the United States that also sell insurance in South America.

Mr. Cochran said that Farmer’s is a division of Zurich, which is an international company; however, he is not sure if they sell car insurance in South America. He added that a colleague of his works for MetLife in South America, although Mr. Cochran does not know what insurance products are sold there, or what the laws in South America dictate regarding insurance coverage.

Representative Keeley explained she is wondering if there is driving information that can be obtained from insurance companies that sell in both the U.S. and South America. The Representative believes this issue should be researched.

Senator Townsend, referencing Representative Keeley’s question, stated he is surprised that there is not more flow of information. He also reiterated that insurance rates are real money to people, therefore it is important to discuss affordability.

Senator Townsend then asked if a system could be put in place to allow undocumented drivers to prove their driving abilities in order to obtain fair, affordable insurance premiums. The Senator envisions this system as one that can circumvent the three year period that State Farm uses when insuring new drivers.

Mr. Cochran responded that State Farm has been collecting driving information since 1914. The industry is heavily driven by statistics. While Mr. Cochran is not sure why the actuaries and underwriters chose a three year time frame, he believes that the statistical models they have devised are effective.

Senator Townsend indicated he does not have an issue with the three year period for new drivers, but he does see that time period as problematic when applied to experienced drivers who have no driving record in the U.S.

Mr. Cochran agreed that there is a verification issue.

Jose Somalo, on behalf of the Mid-Atlantic Hispanic Chamber of Commerce, pointed out that the discussion on insurance affordability has been based on the assumption that there is a driving record for undocumented individuals in their home countries. However, Mr. Somalo believes that many people who would take advantage of driving privilege cards have lived in the U.S. for years; therefore their driving records in their home countries are not as recent and relevant.

Senator Townsend said he is assuming that it is difficult, if not impossible, to get records from another country to be accepted by U.S. insurance companies. The Senator wonders why there is not an alternative solution, such as a community based insurance company that will be understanding of undocumented drivers' situations and will work with them to provide reasonably priced coverage.

Mr. Cochran said he understands Senator Townsend's concerns. However, at the last meeting the Task Force discussed how other countries' documents are not always trustworthy. As such, driving records from other countries could be difficult to verify.

Senator Townsend stated it is easy to distinguish between good drivers and bad drivers, especially with a road test. Consequently, the Senator wonders if a system can be devised to provide insurance coverage at rates that truly reflect experience, rather than provide insurance at a higher rate for three years.

Mr. Cochran said that is where the insurance industry disagrees. The industry believes that time will tell if someone is a good driver. Furthermore, someone can drive very well during a road test, but then drive irresponsibly the rest of the time. State Farm is convinced that individuals are good drivers if they can go three years without any accidents or tickets.

Rosario Calvachi-Mateyko, representing the Delaware Hispanic Commission, commented that the three year, no ticket standard is unfair to Latinos since they are stopped on suspicions of being undocumented.

Ms. Calvachi-Mateyko pointed out that the North American Free Trade Agreement (NAFTA) and the Central American Free Trade Agreement (CAFTA)

exist to facilitate trade among companies from different North and Central American nations. As such, she believes there must be a way for companies to exchange driver information to benefit undocumented immigrants living in the United States.

Ms. Calvachi-Mateyko then asked if the driver safety courses, which can be taken online or in person, are offered in Spanish.

Mr. Cochran said he does not know.

Rhonda West, of the Department of Insurance, stated that AARP offers a driver safety course in Spanish.

Senator Pettyjohn said that regardless it would be important to have a driving history that reflects U.S. rules and regulations, since driving rules and regulations differ by country. The Senator thinks that rather than focusing on the timeframe various insurance companies apply to undocumented drivers, the Task Force should concentrate its efforts on using a driving record to establish and justify insurance rates.

Chief William Topping, on behalf of the Police Chiefs' Council, asked if the same type of database that he uses to look up driver information exists in other countries. The Chief said he agrees with the insurance industry that it would be difficult to factor a foreign driving record into insurance underwriting.

Mr. Cochran noted that the minimum mandatory coverage for Delaware has not changed in 40 years.

Representative Keeley said that in hearing the discussion of how to verify driving records, it appears that the federal government would have to step in to verify that other countries' records are trustworthy to use.

The Representative then discussed the possibility of an insurance company that would cater to the niche market of undocumented drivers.

Senator Townsend said he hopes the private market will address this issue, as he does not believe that every aspect being considered by the Task Force can be legislated.

The Senator then indicated support for the idea

of an insurance company catering to undocumented drivers so that their insurance rates reflect actual driving experience.

Mr. Reed said he agrees with that idea, but that a “niche” market for undocumented drivers would be considered discriminatory by the Department of Insurance. However, companies could carve out a niche to underwrite policies that are more favorable than the three year waiting period. Such a market would have to be open to everyone.

Mr. Reed then mentioned that the National Association of Insurance Commissioners (NAIC) study group produced a paper on availability and affordability of insurance. Additionally, the Federal Insurance Office (FIO) is conducting a study of availability and affordability for low income individuals. Information is still being gathered. The Department is working on a paper addressing these emerging issues.

Mr. Cochran said he is aware of the NAIC report, and that it shows that car insurance has decreased as a percentage of peoples’ budget over the last 15 years. Mr. Cochran interprets this as evidence that competition in the industry has driven down costs.

Mr. Reed, following up on Mr. Cochran’s comment, stated that the market is working in Delaware because the assigned risk pool is currently lower than it has been in previous years.

Mr. Cochran explained that an assigned risk pool is the pool to which the worst drivers are assigned. For example, a person who has had DUIs will be assigned to that risk pool for a three year period. Assigned risk means that no company wants to underwrite someone a policy, so the individual is randomly assigned to a company.

Senator Townsend said he looks forward to a company, either currently established or new, that will take on this issue and utilize all information possible to provide fair insurance rates to undocumented drivers.

Javier Torrijos, on behalf of the Delaware Hispanic Commission, asked how insurance rates will be impacted if undocumented individuals obtain driving privilege cards, but have prior violations because they did not always have a valid license. Specifically, Mr.

Torrijos asked if insurance companies will be lenient on this point since the opportunity to obtain a driving privilege card did not exist in the past.

Mr. Cochran said he does not know how that issue is treated.

Senator Townsend asked Mr. Cochran to discuss how ticketing factors into rates.

Mr. Cochran said that moving violations are taken into account.

Senator Townsend asked if and how undocumented drivers’ information is entered into the system if they are stopped.

Chief Topping said that information is entered into the system. If an undocumented individual commits a violation, the DMV creates a number with that person’s name. If the violation is serious, such as a DUI, the State Bureau of Identification will have a number and name for that person. Chief Topping does not believe the DMV is able to “back out” a violation from someone’s record.

Senator Townsend clarified that “backing out” does not mean “delete.” The Senator then asked why an absence of violations is not part of the consideration of an individual’s insurance rate.

Chief Topping noted that even if an undocumented individual has avoided violations, the very act of driving in the first place is a violation.

Mr. Cochran said it is problematic to take someone’s word that they have not committed any violations.

Senator Townsend clarified his point. He said that if someone has documentation that they have worked in Delaware for five years, it is reasonable to assume that the person has driven within Delaware. If that person’s name is not in any database for moving violations, it can be further assumed that the individual has driven safely for those five years. The Senator would like to know why this information is not considered in setting insurance rates.

Senator Pettyjohn asked how underwriters would know whether such a person has been driving at all;

maybe they have been following the rules and not driving.

Mr. Cochran said that by law, insurance companies can only look back on someone's driving record for three years. Driving records are not the best indicator of violations. In Delaware there is a loophole program, Probation Before Judgment (PBJ), whereby individuals with tickets can serve probation, pay a fine, and avoid having the violation assigned to their record. Mr. Cochran understands PBJ to be fairly common in Delaware. Insurance companies cannot use records unless a judgment or conviction is made. PBJ thwarts the record. As such, insurance companies do not rely solely upon driving records. Mr. Cochran estimates there are 25 factors affecting insurance rates.

Mr. Torrijos asked for confirmation from Mr. Cochran that individuals can purchase insurance with a driver's license, and that their driving records are tracked.

Mr. Cochran said he does not believe State Farm would sell a policy to someone without a license.

Chief Topping stated it is done by insurance companies.

Mr. Cochran said he is not sure that is a legitimate business practice, and believes those companies should be reported to the Department of Insurance. Mr. Cochran then said that his company would sell insurance to someone with a foreign license.

Senator Townsend noted that he does not want Mr. Cochran, Mr. Reed, or Ms. West to be assigned blame for the issues that are being discussed. The Senator hopes to have a conversation about what is happening in the community and what changes may need to happen. The Senator then asked if someone could elaborate on what is being practiced in the community.

Mr. Torrijos said that community meetings have been held at which individuals disclose having purchased insurance without a license. Mr. Torrijos is concerned about having safe roads. The individuals in the community want to comply with the law, which is why they purchase insurance, but they are still missing driving privilege cards.

Mr. Reed said he is not aware of any companies issuing policies to persons without driver's licenses, unless there are stipulations in the underwriting which make exceptions for limited time frames such as 30 or 60 days.

Chief Topping said that in the Department's experience, they have stopped operators who do not have a license but do have insurance. The Department has called insurance companies at the time of the traffic stop to verify coverage. Often times the policies are issued on a temporary 30 or 60 day basis, and are cancelled soon after. The dates on the insurance card appear valid, but the policies are no longer effective. In Delaware it is legal to purchase and register a vehicle without having a driver's license.

Senator Townsend asked if people are intentionally purchasing policies just to get a card and then cancelling the policies.

Chief Topping indicated that it does happen because word gets around that this practice exists. He said that drivers are being taken advantage of in their pursuit to comply with the law. Insurance policies are issued, and either the company realizes the driver does not have a license and cancels the policy, or the driver will cancel his or her policy. Additionally, in some cases individuals will insure cars under other peoples' names.

Senator Townsend said he is surprised that Task Force members are surprised to learn about this practice since it was discussed at the first meeting.

Representative Miro referenced Mr. Cochran's assertion that thousands of Delawareans use Probation Before Judgment (PBJ) to avoid having tickets on their record. The Representative asked Chief Topping if this practice is prevalent, and what criteria are used in implementing PBJ.

Chief Topping said that to qualify for PBJ, one must have a clean driving record for the past five years. PBJ only applies to regular traffic violations such as speeding. Serious violations, like reckless driving and DUIs, are not eligible for PBJ.

Representative Miro asked if eligibility for PBJ is determined at the time of the stop or in court.

Chief Topping said PBJ eligibility is determined in court.

Representative Miro asked if your record will show a violation if you pay a ticket without going to court.

Chief Topping indicated that a violation would go on your record, because paying a ticket is admission of guilt.

Senator Townsend noted that Director Cohan and others from the DMV are unable to attend the present meeting due to their Employee Appreciation Day.

Ms. West stated that she used to work for the DMV. She stated that PBJ is regulated with a process. She added she believes that violations handled through PBJ may appear on one's records, but that no points are assigned to the driver's license.

Mr. Cochran clarified that insurance companies cannot use PBJ violations in their ratings because they are not convictions. He stated that his understanding was that PBJ is not uncommon.

Chief Topping replied it is uncommon.

Mr. Cochran suggested obtaining official numbers to confirm how common PBJ is.

Chief Topping said that he believes PBJ is uncommon because not a lot of people qualify for it or are aware of it.

Senator Townsend invited public comment.

Jorge Tuddon, of the Consulate of Mexico, shared his personal experience with purchasing insurance as a non-resident. He stated that when he first lived in Georgia, he was not able to purchase insurance in the state because he was not a resident. As such, he had to purchase an extension from the insurance company he had in Mexico City until he qualified as a Georgia resident. At that point, he was able to get a driver's license and insurance policy from a company based in Georgia.

Mr. Tuddon also shared how he obtained a license from the United States. He already had a license from Mexico and from the Department of State. He had to provide a letter from the Ministry of Transportation in

Mexico City verifying that he had a clean driving record for the past three years. It took approximately 15 days for the letter to arrive.

Mexico has Ministries of Transportation in each state, much like the DMV in the U.S. Each state has its own rules for licensure and insurance. In Mexico City it is mandatory to buy third party insurance coverage; however, not every state requires that. Mr. Tuddon suggested that if there is communication among the insurance companies in the United States, insurance companies in Mexico, the Delaware DMV, and the Ministries of Transportation in Mexico, something good can be worked out.

Senator Townsend commented that even if the General Assembly cannot legislate a process such as what Mr. Tuddon described, at least the Task Force will be able to point out what gaps exist and how they may be filled by various stakeholders.

The Senator then repeated Mr. Somalo's observation that many undocumented immigrants may have spent more time driving, or have a more recent driving record, in the U.S.

Mr. Somalo added that many of Delaware's undocumented immigrants have been in the U.S. for the past three years, so their most recent driving records would be in the U.S.

Representative Miro noted for the record that his district has a lot of undocumented immigrants who are non-Hispanic, including immigrants from Asia. Many of these people have been driving here for years.

Senator Townsend acknowledged Representative Miro's statement, noting that part of the reason Darlene Battle of the Delaware Alliance for Community Advancement (DACA) was appointed to the Task Force is in recognition of the fact that there are undocumented immigrants from many places. However, the majority of undocumented individuals in Delaware are Latino.

The Senator said state agencies have to make decisions about what languages should be used in delivering services, either by law or practice. It may be easier for the public, private, and nonprofit sectors to communicate policy changes to the Latino community since they are a majority of the undocumented

immigrants, but it will more difficult to do so for immigrants who speak languages other than Spanish.

Ms. Battle, referencing the case numbers that the DMV assigns to undocumented drivers who commit traffic violations, asked if insurance companies could use that documentation to determine insurance rates once driving privilege cards are issued.

Chief Topping said he would imagine those records could be used for that purpose. The difficulty for law enforcement is knowing whom they are pulling over. If someone does not have a license or ID, the name they give to police is what is recorded with the DMV.

Senator Townsend asked if fingerprints are part of those records.

Chief Topping said they are not, unless a criminal offense is committed. If someone provides a false name, they are committing a criminal offense. If it is found that someone gave a false name, the false name remains on the record with the State Bureau of Identification.

Ms. West suggested that Director Cohan and others at the DMV will have to deal with persons who provided a different name at the time of a traffic stop than what their license or driving privilege card says. Those records do not go away.

Senator Townsend said he would not be surprised if insurance companies used DMV case numbers to rate policies for undocumented drivers. The Senator noted that absence of information can also be information.

Representative Miro stated that despite some questions of validity regarding Mexican consular cards, the cards are a form of identification and in most cases are not fraudulent.

Chief Topping, referencing the Minutes from the previous Task Force meeting, spoke in favor of using a layered system of identification to obtain a positive ID. As soon as a suspect misrepresents their identity, everything else that person says is questionable.

Senator Townsend announced that at the June Task Force meeting Chief Topping and Major Zebley will present on law enforcement's perspective.

Mr. Torrijos indicated driving privilege cards will be the best form of identification possible to provide at traffic stops, even though they are not for identification purposes, because officers will know that the cards were assigned to those specific individuals. The Delaware Hispanic Commission would like for undocumented drivers to have a legal and safe means to drive and be able to purchase affordable insurance.

Senator Townsend asked if there are reports of undocumented drivers who have purchased insurance and then been denied claims.

Ms. Calvachi-Mateyko said she will start asking community residents if they have experienced that. She said that residents report being told that they can buy insurance, and so they believe that once they have insurance, they are able to legally drive.

Mr. Reed said that the Insurance Department's fraud unit investigates instances of insured drivers allowing undocumented individuals to use their insurance card. If premiums aren't paid, insurance companies have every right to cancel coverage or deny claims.

Mr. Somalo stated that there are cases of people who years ago were able to get licenses but then could not renew them. Mr. Somalo does not know what happened to these peoples' insurance coverage when they could not renew their licenses.

Chief Topping reiterated that every police officer wants to know who he or she is dealing with during a traffic stop. Identification is paramount. If the DMV checks the documents before issuing driving privilege cards to people, then law enforcement will be able to move forward when trying to identify people during traffic stops.

Chief Topping said he finds the words "racial profiling" offensive because every stop made by his Department is due to someone committing a violation. He pointed out that when someone is speeding at night, he cannot tell the color or race of that person. Chief Topping said he does not tolerate racial profiling in his jurisdiction.

Ms. Velasquez asked Chief Topping if law enforcement would support driving privilege cards since they would provide the closest form of positive

identification during a traffic stop.

Chief Topping said he was elected to his position so he would have to check with his constituents before commenting. However, he repeated the importance of having identification. If the DMV takes on the responsibility of issuing driving privilege cards, he will not question it.

Ms. Calvachi-Mateyko asked Chief Topping who his constituents are.

Chief Topping said his constituents are the 42 other police chiefs in the state of Delaware.

Senator Townsend elaborated that Chief Topping is the chairman of the Delaware Police Chiefs' Council.

The Senator then said that further discussion of insurance issues should be part of a conversation lead by DACA, the Delaware Hispanic Commission, and other stakeholders about what will need to happen to inform the public about driving privilege cards. Senator Townsend hopes this can be accomplished at the June meeting, during which Chief Topping and Major Zebley will give a presentation.

#### OPEN DISCUSSION BY TASK FORCE

Senator Townsend invited Task Force members to propose other issues that need further discussion at the June meeting.

Mr. Torrijos said that nobody likes "racial profiling," yet the Latino community feels as though they are being racially profiled. He commended Chief Topping's office for not tolerating racial profiling. Mr. Torrijos has heard stories of people being stopped on the assumption that they did not have a license. He said that driving privilege cards will eliminate fears of being stopped.

Chief Topping responded he understands Mr. Torrijos's point. He said he cannot control how the population feels, but he can control what he teaches his officers.

Ms. Calvachi-Mateyko said things are changing with regard to racial profiling. For example, Ms. Calvachi-Mateyko was stopped by the police and they assumed she was white.

Representative Miro suggested that in preparation for the June Task Force meeting, research should be done on how public safety and government officials verified immigrants' identities during the 1900s.

Senator Townsend responded by pointing out that immigration requirements used to be less strict, and immigrants were welcomed into the country.

Chief Topping said that our society has become more digital since 9/11 happened. When the Chief began his career he had to call the dispatch center to run a driver's license, but now he can do that from his patrol car.

Representative Miro said the point he wanted to make is to identify what criteria were used by port officials.

Chief Topping said it is fortunate that the Task Force is available to help the DMV identify criteria for identification.

Senator Townsend said it is important to bring undocumented immigrants living in Delaware into the system. The Senator raised the question of what happens when immigrants do not take advantage of the opportunity to become part of the system. He proposed that this be discussed at the June meeting.

Ms. Battle suggested having questions on the test for a driving privilege card that address the following concerns: 1) that drivers know they can only use the card to drive in Delaware; 2) that drivers know they cannot use their privilege cards for identification purposes; and 3) that drivers know the State of Delaware is not responsible for violations that occur outside the state.

Senator Townsend acknowledged the importance of establishing within the community what purpose the driving privilege card serves, and what educational outreach needs to occur. The community has a responsibility to help make this work.

#### PUBLIC COMMENT

Senator Townsend invited public comment.

Brian Zimmer, with the Coalition for a Safe Driver's License (CSDL), said that issuing insurance policies

to people without licenses is not a new practice. Some of the insurance companies that do this are operating legitimately, whereas others take advantage of people. Insurance requirements originated because banks would not allow someone to finance a car unless it was insured. People used to cancel their policies once their car loans were paid.

Mr. Zimmer noted that there are approximately 20 million people in this country who are here legally on visas. These people are able to obtain insurance because there is reciprocity between states and certain countries regarding driving privileges. Furthermore, under NAFTA, all Mexican drivers' licenses are valid in the U.S. The same is true for Canadian licenses. There are well established channels for working out insurance.

He believes that the challenge lies in encouraging undocumented immigrants to apply for driving privilege cards, which can be risky if federal laws change or administrations change.

Mr. Zimmer also highlighted the fact that many undocumented immigrants are non-Hispanic. The DMV can expect to see immigrants from many places applying for driving privilege cards. In 2013 Utah issued 40,000 driving privilege cards. The State of Utah is concerned that 40,000 is too high of a number based on their population estimates.

Mr. Zimmer concluded that the more help and flexibility the Task Force can give the DMV in establishing rules, the more successful the program will be. He encouraged the Task Force to give the DMV discretion to make changes in response to issues as they arise, and to use passports as part of identification. He praised the Delaware DMV and characterized them as quite capable of taking on this initiative.

Ms. Battle informed the Task Force that 90% of the people DACA assists in filing taxes are Asian. This community is in favor of driving privilege cards. Ms. Battle recognized that it is the grassroots community's responsibility to make sure people of all ethnicities and nationalities are made aware of driving privilege cards.

Senator Townsend thanked Mr. Zimmer for praising the DMV, and said that his point regarding giving the DMV flexibility is well taken.

The Senator then reiterated that every state agency grapples with where to draw the line in providing services in languages other than English.

Senator Townsend then asked if there were any other questions or comments.

Ms. Calvachi-Mateyko said that every time the Delaware Hispanic Commission asks community members what they desire most, driver's licenses are the number one response. The community has indicated they will trust the government if the government offers them protection.

Senator Townsend replied that the Task Force hopes protection will be offered, especially given Chief Topping's comments about the importance of law enforcement being able to identify people.

There are still issues to explore, particularly how to structure driving privilege cards and what the community can do. These issues will be discussed at future meetings.

The Senator thanked the Task Force members for their times and efforts, and indicated that Michelle Zdeb will communicate the date of the next meeting.

The meeting was adjourned at 12:13p.m.

---

ATTACHMENT

MEMO: SCR 36 Task Force

DATE: May 13, 2014

TO: Task Force Members

FROM: Michelle Zdeb, Legislative Assistant

RE: Task Force Meeting Minutes and Spanish Version Document

READ IN BY: Caitlin Del Collo, Legislative Fellow

Dear Task Force Members:

Before you are the Meeting Minutes from our last

meeting on April 2nd for approval, prior to approving the Minutes we wanted to recommend a change we found that should adhere in the document with your permission. Scott Vien who had spoken on behalf of Director Cohan was noted in our Meeting Minutes as Scott Vier, with an “r”, not an “n”. We would like to suggest changing his name with your approval if these Meeting Minutes are approved for posting. This would take place on Pages 2, 7, 10 and 19.

In the Spanish Version document, we recommend the following changes to the members, prior to posting them along with our Meeting Minutes. We would like to make the three following changes in the document:

On Page 3:

Task Force Member: Rosario Calvachi-Mateyko last name was spelled with an “e” instead of an “a”. We suggest changing her last name in two locations from

“Calvechi” to “Calvachi”.

On page 7:

We suggest changing “dando” to “dar” in the following statement: “que cometieron un error con tan solo dando las tarjetas y se cometió fraude.”

On Page 19:

We suggest changing “Senador Torrijos” to “Senador Townsend” in the following statement: “Sr. Torrijos confirmó que la declaración del Senador Torrijos habla de su preocupación.”

We would like to thank Rosanna Mena with DelDOT for all of her efforts translating the Meeting Minutes, as from being here ourselves as part of this Task Force we can state this is not an easy job. Thank you for your time.

# Minutes of the Undocumented Motorist Safety & Insurance Task Force Meeting of June 19, 2014

Tatnall Building, Room 112, Dover, DE, 10:00 a.m.–12:00 p.m.

## Meeting Attendance – Task Force Members:

### Present:

Senator Bryan Townsend  
Chief William Topping  
Rosario Calvachi-Mateyko  
Ana Velasquez  
Bryan Cochran  
Pastor Jeremias Rojas  
Claudia Peña Porretti  
Raymond Holcomb

James Collins  
Javier Torrijos  
Major Melissa Zebley  
Jose Somalo  
Darlene Battle  
Jennifer Cohan  
Karen Weldin Stewart

### Absent:

Senator Robert Marshall  
Senator Brian Pettyjohn  
Representative Joseph Miro  
Matthew Heckels  
Judy Diogo

Representative Andria Bennett  
Representative Helene Keeley  
Deborah Gottschalk, Esq.  
Keyla Rivero-Rodriguez  
Sean Lugg

### Staff:

Michelle Zdeb  
Mariclaire Luciano (representing Senator Marshall)

Caitlin Del Collo

### Attendees:

Ian Grossman, AAMVA  
Rhonda West, DOI  
Scott Vien, DMV  
Andrew Meehan, CSDL

Maya Matthews, for Sean Lugg, DOJ  
Gene Reed, DOI  
Kami Beers, DMV

The Task Force meeting was brought to order at 10:18 a.m.

\* \* \*

## INTRODUCTIONS

Senator Bryan Townsend, Co-Chair of the Task Force, thanked members and the public for attending the meeting.

attachment) outlining proposed changes to the Spanish translation of the Meeting Minutes. He then asked if any Task Force members would like to propose changes. Seeing none, the Senator asked for a motion to approve the Meeting Minutes.

## CONSIDERATION OF TASK FORCE MEETING MINUTES

Senator Townsend asked the Task Force members to consider the Meeting Minutes, dated May 13, 2014. The Senator then directed members to a memo (see

Commissioner Stewart, representing the Department of Insurance, motioned to approve the Meeting Minutes.

Javier Torrijos, representing the Delaware Hispanic Commission, seconded the motion.

The Meeting Minutes from May 13, 2014, were approved by a unanimous vote.

Senator Townsend stated the Spanish translation of the Meeting Minutes would be amended as proposed in the memo.

Rosario Calvachi-Mateyko, representing the Delaware Hispanic Commission, informed the Task Force that she proposed the changes to the Spanish version of the Minutes detailed in the memo, and that they were minor and unrelated to content. Ms. Calvachi-Mateyko praised the translator for her work on the Spanish translation.

Senator Townsend echoed Ms. Calvachi-Mateyko's sentiments, and asked Director Cohan, Task Force member, to convey his appreciation to the DMV employee who translated the Meeting Minutes.

#### PRESENTATION BY DELAWARE STATE POLICE & POLICE CHIEFS' COUNCIL

Senator Townsend introduced the presenters, Task Force members Chief William Topping and Major Melissa Zebley, who represent the Police Chiefs' Council and the Delaware State Police, respectively.

Major Melissa Zebley began the presentation by discussing the significance of recent enhanced language services for law enforcement, which are due to partnerships with some of the organizations represented on the Task Force. Patrol officers are trained to offer free language services to those with limited English proficiency, regardless of what their primary language is. The services can be provided for the purposes of interviewing by patrol officers and the courts. Law enforcement has found that these services, thanks to the partnerships mentioned above, have greatly aided communities with limited English proficiencies.

Following the last meeting Major Zebley and Chief William Topping researched how other states are dealing with the issue of driving privilege cards using literature provided by Andrew Meehan of the Coalition for a Safe Driver's License (CSDL). They specifically examined Texas, Oregon, Vermont, Illinois, and California. In addition to the recommendations presented by the DMV at the first Task Force meeting, the Major and Chief recommend requiring 10-point fingerprinting as

part of the driving privilege card application, which is a requirement in Texas. Major Zebley acknowledged that this would entail a cost to the State Bureau of Identification. The benefit of fingerprinting is that it allows for greater verification of a person's identity than facial recognition alone.

Chief William Topping emphasized the importance of law enforcement officers being able to verify with whom they are interacting. He then recognized that he cannot obligate state agencies to do anything that requires a fiscal note. However, their research indicates that requiring fingerprinting for driving privilege cards is beneficial. For example, one benefit of fingerprinting is that it safeguards against fraud. If driving privilege cards are made available, they will have value not only to those who have them, but to those who do not have them.

If the DMV takes the time to verify documents and identities, Chief Topping believes law enforcement will not have strong objections to the process of issuing driving privilege cards. Currently, law enforcement bears the burden of verifying identities of undocumented individuals encountered on the job. This process can sometimes include contacting the Department of Homeland Security (DHS), or Immigration and Customs Enforcement (ICE) to verify identities and immigration status. If the DMV verifies identities upfront with driving privilege cards, law enforcement would have an easier time dealing with individual they encounter.

The Chief advised the DMV that the agency may encounter challenges in interpreting for immigrants who speak different dialects.

Major Zebley followed the Chief's comments by voicing the concern of whether there is an infrastructure at the DMV for providing free interpreting for individuals with limited English proficiency.

Major Zebley concluded the presentation by reiterating that she and Chief Topping recommend requiring fingerprinting as part of the process of issuing driving privilege cards. The Major and Chief then took questions.

Commissioner Stewart stated fingerprinting would be an obstacle to implementing driving privilege cards

because undocumented individuals might fear what will be done with the information. The Commissioner stated she is in favor of driving privilege cards, which facilitate the purchase of insurance, which in turn benefits society through lower car insurance premiums. She then clarified that she does not think fingerprinting is a bad idea; rather, she views it as a potential roadblock to participation.

Major Zebley responded she appreciates the Commissioner's views. The Major then echoed a statement made in a previous Task Force meeting that the more difficult it is to obtain a card, the more secure the card is. Another point the Major restated from a previous meeting is that twice the amount of people applied for driving privilege cards in Utah than was expected based on the known undocumented population; this indicates widespread fraud. Major Zebley recognized the Delaware DMV is highly rated, and said she does not want to see its work compromised by fraudulent driving privilege cards.

Chief Topping added that many undocumented people with whom law enforcement has had contact have been fingerprinted already, either by ICE or the Immigration and Naturalization Service (INS). Fingerprinting allows law enforcement to verify if the identification provided is accurate. The Chief reminded Task Force members that when an individual is added to the State Board of Identification system, they are thereafter listed under the name provided at the initial contact with law enforcement, even if that identity is later found to be false.

The Chief stated he does not see a way around fingerprinting because of the need for officers to obtain reliable identification information.

Commissioner Stewart acknowledged the Chiefs' position, and said she does not know how great of an issue it will be. She suggested establishing a sunset provision to review the system once implemented. She then reiterated the possibility that fear will preclude people applying for driving privilege cards. The Commissioner related examples of trying to persuade undocumented individuals to seek medical treatment for injuries sustained in car accidents. The Commissioner does not want to see an obstacle to people receiving driving privilege cards and getting insurance.

Chief Topping responded the driving privilege card has to have value, which fingerprinting provides. He then compared having to produce a birth certificate to get a driver's license with fingerprinting. The Chief does not view these requirements as obstacles.

Senator Townsend summarized the main points of the presentation as follows:

- Law enforcement will appreciate the DMV's efforts to vet undocumented motorists' identities since officers currently have to do so.
- They recommend requiring fingerprinting as part of the process of obtaining a driving privilege card.

The Senator then invited other Task Force members to comment.

Javier Torrijos said the goal is to enhance public safety by encouraging people to learn the rules of the road, take the test, get a driving privilege card, and purchase insurance. Mr. Torrijos said he does not believe the states with successful driving privilege card programs have required fingerprinting. A balance must be achieved between encouraging driving privilege cards and preserving security.

#### PLAN FOR COMMUNITY ENGAGEMENT

Senator Townsend acknowledged the merit of Mr. Torrijos's statement. He said the center of the Task Force's discussion has been how to balance the needs for security and safety with the need of the community in such a way that the program is successful. The Senator then invited further comment.

Ms. Calvachi-Mateyko said the issue of trust needs to be discussed, particularly in terms of what will be done with the information collected. In April 2014 the Mayor of Philadelphia and the police signed an agreement with Latino and other groups vowing not to call ICE during interactions with suspected immigrants. Ms. Calvachi-Mateyko believes the same sort of agreement could be implemented in Delaware to establish trust with those wishing to apply for driving privilege cards.

Ms. Calvachi-Mateyko then stated that fingerprinting is common in Latin America, and therefore requiring it for driving privilege cards will not be an issue. The

concern to address is whether the community can trust the government with their information.

Furthermore, Ms. Calvachi-Mateyko suggested working with the Mexican, Guatemalan, and other embassies to provide documents to those wishing to obtain driving privilege cards.

Senator Townsend agreed on the importance of building trust, and noted the community has a responsibility to help the Task Force understand what steps can be taken to build trust. This will facilitate a successful program.

The Senator then asked Ms. Calvachi-Mateyko to confirm that it is common to be fingerprinted in order to get a driver's license in Latin American.

Ms. Calvachi-Mateyko replied that fingerprinting is used for nearly all interactions with government. Identification cards separate from driver's licenses are issued, and part of the process to obtain them is fingerprinting.

Senator Townsend highlighted the importance of dispelling fear of contact with law enforcement, particularly in cases of spousal abuse in which a victim refrains from calling the police to avoid possible deportation. Senator Townsend then invited more comment.

Mr. Torrijos passed around a Colombian identification card, which includes a picture of the cardholder's fingerprint. These identification cards are sanctioned by the Colombian government and entail a thorough vetting process.

Senator Townsend asked if Chief Topping and Major Zebley had been aware that fingerprints are required for certain foreign identification cards.

Chief Topping said he was aware due to his length of service in Georgetown. He then stated it is rare for his officers to call ICE when interacting with undocumented individuals. For example, if an undocumented individual is stopped and does not have a license, in most cases the person will be issued a ticket, and the car will be towed, unless there is a licensed driver in the vehicle who can legally operate it. He estimated that 99% of interactions with undocumented individuals do not involve ICE.

Ms. Calvachi-Mateyko said that is not enough.

Chief Topping replied he does not think there will be support for a statewide agreement not to contact ICE due to the number of jurisdictions in the state. ICE is contacted in criminal cases.

Ms. Calvachi-Mateyko said that is the case in Philadelphia as well. Criminal offenses are not protected by the agreement with the Mayor.

Chief Topping reiterated fingerprinting is already done on some undocumented immigrants. He stated that in light of the information that fingerprinting is commonly required to obtain identification cards in Latin America, he does not view fingerprinting as an obstacle to success.

Mr. Torrijos agreed with Chief Topping that fingerprinting is not an obstacle. Rather, the concern is how identifying information will be used by government agencies, and whether deportation will occur. At the same time, Mr. Torrijos acknowledged that the primary goal should be getting people to pass the written and road tests and to purchase insurance. He suggested that the Task Force consider other ways to achieve that.

Major Zebley added that another goal is to reduce the potential for fraud, which fingerprinting can do. The Major also pointed out that it would be difficult to implement safeguards such as fingerprinting after driving privilege cards have already been issued.

Chief Topping responded driving privilege cards will not have value to insurance agencies if they are too easy to obtain. Additionally, he cautioned that the federal government could compel the State to share its database containing undocumented individuals who obtain driving privilege cards.

Senator Townsend stated the issue of the federal government asking for information was discussed in the first meeting. The State hopes it will not be put in that position by the federal government. The Senator asked Director Cohan, Delaware DMV, to elaborate.

Director Cohan, representing the Delaware DMV, clarified that Utah, which currently has one of the best programs in the country, initially did not require fingerprinting. However, a tremendous amount of

fraud occurred in the issuing of driving privilege cards, so a year later fingerprinting was added to the list of requirements.

The director proceeded to say that the DMV is by default a part of the business of identity management, therefore the agency has to be skeptical of everyone. Furthermore, her contact at ICE, Keith Fowler, has indicated that ICE does not have the time or resources to pursue states for their databases of driving privilege cardholders. As such, the Director believes the risk of ICE asking for information is low.

Commissioner Stewart suggested the comparison with Utah is not entirely appropriate since Utah is closer to the border and experiences a greater influx of immigrants. Most of the immigrants who settle in Delaware choose to do so because they have ties to the area.

Major Zebly stated that people who wish to commit fraud will be drawn to Delaware once driving privilege cards are implemented. There were similar problems when gaming was established in Delaware.

Commissioner Stewart repeated her suggestion to sunset whatever program is initially implemented to allow for review, modification, etc., as necessary.

Chief Topping spoke to the importance of preventing problems before they require intervention, which costs less money.

Ms. Calvachi-Mateyko asked Director Cohan about working with the Mexican embassy and other embassies.

Director Cohan explained the DMV will work with embassies to ensure that applicants have secure documents. She then urged Task Force members not to underestimate the potential for fraud. The Director relayed a recent incident in which a DMV employee provided invalid driver's licenses to criminals for \$3,000.00 each. Fraud happens all the time, so preventative efforts should be taken.

Jose Somalo, representing the Mid-Atlantic Hispanic Chamber of Commerce, said he does not view fingerprinting as an obstacle to the community. In fact, fingerprinting is part of the process of naturalization, so people view fingerprinting positively. However,

Mr. Somalo said he is aware of a rumor that some of the people being deported by ICE in Maryland have applied for driving privilege cards. This rumor could be contributing to the fear.

Director Cohan repeated the assurances that her contact at ICE provided regarding the agency not having the time or resources to pursue undocumented immigrants who apply for driving privilege cards.

Darlene Battle, representing the Delaware Alliance for Community Advancement (DACA), reminded Task Force members of a suggestion she made at the first meeting to implement the Trust Act to prohibit law enforcement from turning over to ICE those with driving privilege cards during a traffic stop. This act was suggested but not passed in Maryland.

Ms. Calvachi-Mateyko spoke to the reality of the fear that undocumented families experience, and the need to protect children.

Senator Townsend encouraged the community to educate the Task Force on how to dispel fear among the community. The Senator believes it is incumbent upon himself and the community to reduce fear, as he is not certain that more can be done from law enforcement.

Claudia Peña Porretti, representing La Esperanza, said she appreciates everything law enforcement is saying, and noted that Chief Topping is well liked in Georgetown. Ms. Porretti then said she agrees with Mr. Torrijos and Commissioner Stewart regarding the trust issue. The goal of the privilege cards is to enhance safety on the roads. The Task Force must now consider what the goal of fingerprinting is.

Ms. Porretti then suggested it is paradoxical to say that privilege cards have value, and to require fingerprinting, because requiring fingerprinting conveys a message that driving privilege cards are otherwise not valuable. She further suggested that the level of trust towards the government when submitting to fingerprinting is greater in one's country of origin than here in the United States.

Finally, Ms. Porretti said she believes Chief Topping would agree that most of the people who would apply for privilege cards in Georgetown are not committing crimes. As such, it is unlikely that these folks would need

to be identified via fingerprints by law enforcement. Fingerprinting could act as a barrier to prospective applicants.

Chief Topping shared evidence that the Hispanic population is victimized most often by Hispanic people. That is why Chief Topping stresses the potential for and the need to prevent fraud.

The Chief then highlighted the speed and efficacy of word of mouth communication among the Latino community in Georgetown. This form of communication necessitates a well thought message at the outset that driving privilege cards have value and that ICE will not be contacted. Chief Topping went on to say that his officers do not call ICE anyway because they almost never show up when called. The Chief would prefer not to involve ICE in traffic stops. He cautioned, however, that he cannot resist federal agents who ask for information about undocumented immigrants.

Ms. Calvachi-Mateyko noted that those within the undocumented community also desire protection from criminals.

Chief Topping said that his officers do not contact ICE. Having privilege cards with fingerprints that can be swiped at traffic stops makes it easier for law enforcement officers to send people on their way.

Major Zebly reiterated that states that have issued driving privilege cards without fingerprinting eventually revise the requirements to include fingerprinting. Including fingerprinting from the beginning will ensure that costs are accounted for and minimized.

Senator Townsend invited Ray Holcomb to comment.

Ray Holcomb, representing the Department of Homeland Security, said he is not sure that the Mayor of Philadelphia has the authority to prohibit ICE from detaining people. Furthermore, he noted a statement previously made by Chief Topping, which is that administrations change. Even though the current administration does not pursue action through ICE, the next administration could. Mr. Holcomb then stated that the first bombing of the World Trade Center was committed by an overstayed alien who had a legitimate New York driver's license. Mr. Holcomb concluded this

is why it is important to safeguard cards, and make clear that driving privilege cards are not for identification purposes.

Mr. Torrijos stated he wanted to look for a solution to the fear within the community. He said the outreach the DMV has engaged in has transformed the community's perception of the agency. Part of the outreach going forward should be to continue to put a face to the DMV and to communicate that the fingerprinting is for security reasons. Leaders in the community should echo that message.

Commissioner Stewart responded to Mr. Holcomb's comments by pointing out that terrorism cannot always be prevented.

Mr. Holcomb replied that his job is to try to prevent deaths from terrorism.

Senator Townsend encouraged Task Force members to focus on community engagement strategies to build trust, and stated that the recommendation to fingerprint does not seem to be an issue. However, the Senator noted his concern about requiring undocumented individuals to be fingerprinted in order to obtain driving privilege cards, when documented residents do not have to be fingerprinted in order to obtain a driver's license.

The Senator repeated his call for concrete ideas surrounding community outreach and what can be done to make a driving privilege card program successful. He also stated that the Task Force would have to leave time for a presentation on what other states are doing.

Ana Velasquez, representing the Latin American Community Center (LACC), responded to Mr. Torrijos's comment regarding trust by suggesting implementing a Trust Act. Ms. Velasquez stated that although the federal government could ultimately request information from the state, it would be reassuring to have an agreement from law enforcement that they will not contact ICE unless the case involves serious crimes. Ms. Velasquez asked law enforcement to respond to her suggestion.

Chief Topping repeated his belief that a Trust Act would not gain enough support to pass. He noted that trust goes both ways; specifically, law enforcement officers have to be able to trust individuals when they give their name.

The Chief noted that initially he did not think driving privilege cards would work. After attending Task Force meetings, however, the Chief is in favor of them and has reported on the advantages to his colleagues.

Director Cohan said she is in favor of implementing a Trust Act for the purpose of launching the driving privilege card program. She noted she does not know if such an Act could be implemented at the State level, but it could be applied at the DMV level. The Director wants to reassure residents that the agency will not contact ICE with their information.

Senator Townsend asked the community what else it needs to do to make the program successful.

Mr. Torrijos replied the community needs to communicate the message and involve leaders.

Senator Townsend asked Mr. Torrijos what message he was referring to. The Senator also stated he is in favor of penalizing individuals who do not utilize the driving privilege card system, once implemented.

Chief Topping said there are already penalties in place, such as being charged with driving without a license.

Mr. Torrijos said the message is that the program is in place to enhance public safety, and that the security measures are taken to prevent fraud. He then highlighted the importance of having law enforcement's support, and suggested creating a Trust Act at least between agencies.

Ms. Calvachi-Mateyko commented on the success of recent community engagement efforts, which facilitate conversations. She said that the community responds best to information presented by people they trust, rather than information that is just printed in brochures. Ms. Calvachi-Mateyko recognized that brochures should continue to be made, but that they should be delivered by trusted figures.

Ms. Velasquez said the LACC has an advocacy task force that can conduct an educational campaign. However, Ms. Velasquez said she will not be comfortable engaging in those efforts unless agencies in Delaware assure the community that they will not contact ICE.

Ms. Velasquez then shared results of a recent, non-

driving privilege card related focus group. It was found that the community will pursue any means to legitimacy and participation in society, such as purchasing car insurance.

Ms. Battle reminded the Task Force that she represents Asian and African undocumented individuals. She spoke to the need of finding a universal language with which to communicate the driving privilege program.

Mr. Somalo indicated support for a Trust Act at the DMV level.

#### PRESENTATION BY AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS

Senator Townsend introduced the next presenter, Ian Grossman. A summary of the presentation follows.

Ian Grossman made the following points:

- The American Association of Motor Vehicle Administrators (AAMVA) is an international association representing the interests of Canadian and American agencies related to motor vehicles and highway law enforcement.
- The issues being considered in Delaware are also being discussed in other states.
- Driver's licenses are commonly used as forms of identification for non-driving related purposes.
- Every year the AAMVA updates design standards for DMVs, which helps combat fraud.
- There is a long list of State benefits associated with having a driver's license.
- The DMV recognized it was in the business of identity management long before 9/11 occurred.
- The driving privilege card program in Oregon is up for a referendum vote. If it passes, the DMV must implement the program within 30 days.
- Numerous states introduced legislation in 2014 to provide some sort of driver's license to undocumented individuals.
- There is public safety benefit to implementing

driving privilege cards, especially since many individuals are already driving.

- Even though law enforcement will understand that driving privilege cards are not for identification purposes, the private sector may treat the cards differently.

- Other countries have different levels of document security.

- Law enforcement agencies across the country have taken different positions on whether to contact ICE if they encounter an individual with a driving privilege card.

- There is reciprocity across state lines for driving credentials, but not necessarily for identification.

- The road test has a high passage rate, but the written test has a low passage rate. Literacy and translation issues factor into the low passage rate.

- There is question regarding what to do when an individual admits to breaking the law by having driven without a license.

- States need to decide what to do with facial recognition information once collected.

- There is a possibility that people will flock from other states, yet the proposed requirement to produce two years of Delaware tax returns addresses that concern.

- Driving privilege cards have to be visibly different from driver's licenses, per the Real ID Act.

Mr. Grossman then fielded questions.

Gene Reed, on behalf of the Department of Insurance, asked for clarification that the law passed in Oregon but still needs to be approved by voter referendum.

Mr. Grossman confirmed that the law passed the legislature but still needs voter approval.

Ms. Velasquez asked if there are statistics for the driving program in D.C., which applies to a broader population than just undocumented immigrants.

Mr. Grossman replied there are no statistics yet

because the program just started. The only established data is from Utah, which does not necessarily compare well to other states.

Ms. Porretti asked if there have been any constitutional challenges in the states that require fingerprinting.

Mr. Grossman said he is not aware of any. He further stated that fingerprinting the undocumented population can be justified since they use a different set of documentation than the general population. Some states even conduct background checks.

Gene Reed asked if the numbers Mr. Grossman reported regarding states that have implemented driving privilege programs are the most current available.

Mr. Grossman responded they are. Nine states have implemented programs, and another ten states introduced legislation in 2014 to create programs.

Senator Townsend thanked Mr. Grossman for his comments.

#### PUBLIC COMMENT

Senator Townsend asked if there was public comment. Seeing none, the Senator announced that the names of Ms. West and Mr. Reed were inadvertently left off the last Meeting Minutes. Senator Townsend asked for a motion to amend the minutes to include those names on the attendance list.

James Collins, representing the Office of the Governor, motioned to approve.

Mr. Torrijos seconded the motion.

All Task Force members voted to amend the Minutes as proposed.

#### TIMELINE FOR FINAL REPORT

Senator Townsend said he would prefer not to meet in July or August. He suggested that a draft Final Report be circulated prior to meeting in September, so that Task Force members can discuss edits. The Final Report will be submitted in October.

Commissioner Stewart offered the conference room

in the Department of Insurance in Dover for the next meeting. The room is set up for video conferencing.

Ms. Calvachi-Mateyko reported that some people in the community purchase insurance through American Independence and Dairyland, which are based in Georgetown. The rates are affordable (approximately \$86 a month), and the policies do cover accidents.

Bryan Cochran, representing the private insurance industry, stated those are legitimate insurance companies.

Mr. Collins reminded Task Force members that there was discussion of using the term “driver authorization card” instead of “driving privilege card.”

Ms. Calvachi-Mateyko suggested using “safety driving card.”

Director Cohan explained that the word “privilege” has been proposed because Title 21 of the Delaware Code characterizes driving as a “privilege.”

Mr. Collins said he believes there is consensus that the Task Force should pursue a driving privilege card program. Furthermore, there is insurance available. The remaining concern is verifying peoples’ identities at the DMV. Mr. Collins asked if his summary accurately captures the Task Force’s current discussion.

Senator Townsend said that he would add there is still question about what can be done at the community, State, DMV, and law enforcement levels to make the program work. That is why there will be a drafting process of the final report.

Commission Stewart asked if it is correct to say that the goal of the Task Force is not to have draft legislation.

Senator Townsend said that if there is consensus on proposing legislation, he will be happy to do that. The Senator would like to gauge members’ feelings ahead of the next meeting.

Mr. Collins said information breeds trust. He said that law enforcement already has policies for how to contact traffic stops. It would be helpful to communicate those policies and rights to people in order to dispel fears.

Chief Topping said law enforcement does not have time to target undocumented immigrants or any other community. He then said he will present the Trust Act to the Police Chiefs’ Council. The Chief anticipates that some people will support it, while others will not. The Chief then noted that funding needs to be secured for any resulting program.

Mr. Collins repeated his suggestion to disseminate information about law enforcement policies. Perception is reality, so it is important to provide accurate information to people about what to expect from law enforcement.

Chief Topping emphasized the fact that law enforcement answers to federal bodies as well state bodies. If Delaware addresses all the issues related to driving privilege cards upfront, the program will be more successful.

Ms. Velasquez asked why law enforcement cannot sign off that they will not call ICE if that is already being practiced.

Chief Topping, referencing interactions with the federal government, responded it is easier to ask for forgiveness than to ask for permission. He further stated that putting such policies in writing diminishes law enforcement discretion.

Mr. Collins agreed, but noted that there have to be basic guidelines that can help the community understand what triggers certain responses.

Ms. Battle spoke to the need for consistency among law enforcement officers who interact with undocumented immigrants.

Mr. Reed suggested creating a document to inform the community that the State does not have to report their information to the federal government except under certain criminal circumstances. Outlining those circumstances will help the community understand what to expect.

Senator Townsend proposed including the issue in the draft report and discussing it at the next meeting. The Senator then indicated he will seek Chief Topping’s thoughts while drafting the draft report, since the Chief has been widely praised for his work in Georgetown.

The Senator thanked Task Force members for their questions. He also thanked Michelle Zdeb and Caitlin work and encouraged everyone to contact him with Del Collo for their work to organize the meeting.

The meeting was adjourned at 12:18 p.m.

## Minutes of the Undocumented Motorist Safety & Insurance Task Force Meeting of Wednesday, October 1, 2014

Buena Vista State Conference Center, 1:30-3:30p.m.

Meeting Attendance – Task Force Members:

Present:

Senator Bryan Townsend  
Javier Torrijos  
Ana Velasquez  
Bryan Cochran  
Claudia Peña Porretti  
Karen Weldin Stewart

Chief William Topping  
Major Melissa Zebley  
Jose Somalo  
Darlene Battle  
Sean Lugg

Absent:

Senator Robert Marshall  
Senator Brian Pettyjohn  
Representative Joseph Miro  
Matthew Heckels  
Judy Diogo  
Rosario Calvachi-Mateyko  
Jennifer Cohan

Representative Andria Bennett  
Representative Helene Keeley  
Deborah Gottschalk, Esq.  
Keyla Rivero-Rodriguez  
James Collins  
Pastor Jeremias Rojas  
Raymond Holcomb

Staff:

Michelle Zdeb  
Mariclaire Luciano (representing Senator Marshall)

Shelley Earley  
Alton Irvin

Attendees:

Scott Vien, DMV  
Rhonda West, DOI  
Mike Williams, DelDOT/DMV  
Kevin Andrade, Maxima Radio

Kami Beers, DMV  
Anne Hoffman, WDDE  
Andres R., Member of the public  
Rene Knight, UMC

The Task Force meeting was brought to order at 1:44pm

\* \* \*

## INTRODUCTIONS

Senator Bryan Townsend, co-chair, thanked the members of the Task Force and public for attending the meeting. He announced that the next and final meeting of the Task Force was scheduled for Monday, October 27th at Buena Vista from 1:30-3:30pm.

## CONSIDERATION OF TASK FORCE MEETING MINUTES

Senator Townsend asked the Task Force members to consider the Meeting Minutes date June 19, 2014. The Senator noted he had not received any feedback about any proposed changes to the Minutes and asked if anyone had any proposed changes. With no responses, he asked for a motion to approve.

Javier Torrijos, representing the Delaware Hispanic Commission, motioned to approve the Minutes.

Bryan Cochran, representing the private insurance industry, seconded the motion.

The Task Force Meeting Minutes dated June 19, 2014, were approved with all in favor.

## OUTLINE OF DRAFT REPORT

Senator Townsend noted he had hoped to have a draft report available; however, instead he referred to an outline in the packet to encourage further discussion regarding any outstanding issues or concerns. He stated that the outline lists different topics he thought would be most helpful in the context of discussion today that still might be outstanding or of concern.

He noted that the Task Force had many thorough discussions over the course of the earlier meetings before the summer break. Senator Townsend said he was curious to learn if the intervening months have led to any changes in anyone's position, either in their personal feelings or in their sense of the views of the community. He mentioned that there may have been developments that may have shifted peoples' views on this kind of legislation and the prospects for it. He said that in many ways the Task Force has focused on technical aspects of how this kind of system would move forward. The Senator further stated that there may be some outstanding questions in regards to that

but he thinks it is important to be realistic and bear in mind things that have changed and he would welcome any comments.

Senator Townsend stated that, more than anything, he would like for a good discussion to serve as the basis for a report that would be drafted in the next 7-10 days and then circulated to members for more time to review and comment prior to October 27th . At that point the Task Force can figure out if there is a group consensus on any issues and any recommendations that can be put forth to the General Assembly. Senator Townsend expressed that the content of today's discussion will assist him in generating the report. With that he opened the discussion up to members of the Task Force.

## OPEN DISCUSSION BY TASK FORCE AND PUBLIC COMMENT

Mr. Torrijos stated at the last meeting they talked about ten-point fingerprinting and after talking with several people in the community there is some concern. It has to do more with Secure Communities. Mr. Torrijos invited Kevin Andrade of the public, representing Maxima Radio, to come to the meeting as Mr. Andrade has been talking on the radio and received a lot of feedback from the community. Mr. Torrijos wanted Mr. Andrade to share some of those concerns that the community has raised. He then asked Senator Townsend if he could give the floor to Mr. Andrade.

Senator Townsend stated he did not mind and if no one else objected he was pleased to let Mr. Andrade speak.

Kevin Andrade stated he learned that a requirement of fingerprints will make it very difficult to find people who are willing to apply for the driving privilege cards. He said that people who are undocumented are afraid of being pulled over by the police. These individuals are afraid, and do not know that the police are not after undocumented people. He said that he thinks the response would be zero. When the Task Force first talked the driving privilege card, we thought it would be a good idea, as they are doing it in the state of Maryland. However, now that Maryland has provided a Card, many people in Maryland have received calls from Immigration Enforcement. Before, Immigration Enforcement did not know where undocumented individuals were and now they do know. So to say

that Immigration Enforcement is not going to come after undocumented individuals does not seem to be accurate. If fingerprints are required, no one is going to apply for the driving privilege cards. It also is going to cause the same issue with the Secure Communities. Secure Communities has been in place since 2006.

Chief William Topping, representing the Police Chiefs' Council, said he was not sure we have Secure Communities in Delaware.

Mr. Andrade said yes, he thinks so. What happens is that local and state police have the power to take someone to the police department if they do not know who the individual is. The police can then fingerprint the individual and send him or her to Immigration. Many people have been pulled over for whatever reason, and police ask for a driver's license. If police officer is not sure they are who they say they are, the police officer will require fingerprints. Many people are getting deported because of this process. If the Task Force has the fingerprinting as a requirement, he suggests it would be very difficult to support.

Senator Townsend stated he was glad that there is something to discuss now, as he was surprised at the last meeting when there appeared to be agreement on the idea of fingerprinting. He stated that fingerprints are a very official item. He is curious about why people would not want to be fingerprinted even though they are willing to sign up with other kinds of documentation, such as a tax return. Do they think that fingerprints are the key difference between Immigration officials knowing where they are or not?

Mr. Andrade commented that the reality is when people cross the border into the country, many are not arrested. They are detained. They are put in centers and they often have family and children here. He said the government knows they are here but as long as they do not get involved in criminal activity, they should be okay. Mr. Andrade stated again that people are still afraid and do not want to be pulled over by police officers and be asked for their driver's license. He said that for the past three years, the DMV allows people to register for licenses with a passport. The database number for that driver's license will be 000. If a Latino man is driving a car, he will be pulled over with no good reason, simply because a license tag check kicks back a 000 number.

Chief Topping stated that he still agrees with the ten-point fingerprint. Many of the countries south of the border require fingerprints for just about everything, including voter registration and driver's licenses. Someone is likely to be asked for fingerprints numerous times throughout his or her lifetime. In the United States, the state of Virginia was requiring fingerprinting prior to voting. The Chief said that is the same kind of thing that is being considered here for identification.

He also talked at length with Homeland Security Investigations (HSI) about deportations. He said they are not doing this and have not done so for some time, at least not in his jurisdiction. He also stated that Mr. Andrade's comment about Immigration being contacted by local police is not correct. He said they might run someone through the National Crime Information Computer to see if the person is wanted. They will run for wants and warrants but do not do Immigrations job for them. They do not contact HSI or ICE unless there is a serious felony involved. He said for driver's license and traffic stops, they do not contact ICE.

In regards to people being afraid, the Chief stated just about anyone he pulls up behind gets afraid. It is not just a certain ethnic group that is afraid. The implication that a police department would target any particular ethnic background is not true. His officers do run tags on many people. He said he is not aware of 000 showing up on tag numbers. The implication that any police department would target a particular ethnic group is very distasteful to him, and he and his officers do not even have time for such a practice.

He said that the ten-point fingerprint identification is paramount for DMV and for the police to have a positive identification on who is driving that car. He emphasized that the police need to know who is driving the car. He commented that they have gone before the Joint Finance Committee and received approval for new laptops for all the police cars and fingerprint identification devices. He showed a small electronic device that would allow him to identify someone from one or two fingerprints, by comparing to a database file.

The Chief stated that he thinks this option is critical and that the real-time fingerprinting verification is not an imposition. He thinks that if it is this Task Force's recommendation to allow the driving privilege

card to go forward, and if it does go forward, then a lot of people would take advantage of it. While some people are apprehensive, many are not and do want to become legal drivers in the state of Delaware. A card will facilitate that. Those are the people that the Chief is looking to help.

He further stated that if there are people who are afraid to come forward, those are their own particular feelings. This Task Force does not have control over how people feel, though if we have an education campaign through Mr. Andrade's radio station and other public campaigns it may help to make people less apprehensive. He said he has been in Georgetown over 18 years, and they have supported people and they have sent people away but for criminal activity.

In regards to criminal activity, people will not be referred to Immigration for a traffic stop unless they are wanted for a previous crime. If anyone comes across the border, they are going to be fingerprinted and on file. If there is doubt or they are trying to avoid prosecution for some reason, law enforcement will then have the capability to run prints to know who it is. If you have ever been to the FBI for any reason, your fingerprints will be on file. Law enforcement does not want to give up that capability because they want and need to know whom they are talking to. He is not opposed to the driving privilege card. There are many cases where someone uses another person's name. If there is a positive ID through fingerprints, it helps the police to eliminate some of those issues.

Senator Townsend said that he does have some questions but will wait until others have a chance to respond.

Mr. Andrade responded to the Chief's comments. He said he thinks the police in Georgetown have been great in the last 4 or 5 years. He reminded the Chief that in 2006 they had done a campaign together to tell the people that the local police and the state police are not Immigration. However, three weeks after that, Immigration came and there were large raids. They had to tone down that campaign because Immigration did show up. Mr. Andrade stated that Chief Topping has been great with the community and is well aware of the issues. He agrees that we should know who the people are. However, he thinks that fingerprinting will make the situation more difficult. He suggested using

Passports.

Jose Somalo, representing the Mid-Atlantic Hispanic Chamber of Commerce, said that there are some risks of requiring fingerprinting but he thinks the benefits of having that information outweighs the risk and will be a step forward. In order to become a permanent citizen, these individuals will have to get fingerprinting.

Senator Townsend asked for confirmation whether fingerprinting is part of the naturalization process.

Mr. Somalo said fingerprinting is part of the process before you become a permanent citizen.

Senator Townsend asked if there are people who do not have any fingerprints on record anywhere.

Major Melissa Zebley, representing the Delaware State Police, stated beyond those who have had involvement with FBI, many people who are applying for certain jobs or positions such as teachers and attorneys will also get fingerprinting done.

Senator Townsend, who is an attorney, joked about not remembering getting his fingerprints taken because he was more worried about passing the bar. In general, most citizens if they have not committed a crime or never had to go through a professional kind of application process would not have their fingerprints on record anywhere. He wondered what percentage of the population in Delaware has their fingerprints on file versus those who do not.

Darlene Battle, representing the Delaware Alliance for Community Advancement (DACA), said that anyone who is working around children is fingerprinted.

Claudia Peña Porretti, representing La Esperanza, stated that after the last meeting and after every meeting she goes back to the community and speaks to the La Esperanza staff because they are the eyes and ears. They know the community and the community trusts them. She brought this issue back and asked if they thought the community would object to fingerprinting. Nine out of ten of the staff said they did not think they would object to the fingerprinting. However, they did come back to her and said it depends. Although there is fingerprinting in their country of origin, it is totally different when you are talking about people who are undocumented.

The hope of them becoming legal and going for a permanent resident card and being fingerprinted because they crossed the border and entered the U.S. that way is slim. We cannot expect these people who are living in Sussex County to become legal and become fingerprinted. She agreed that Americans get fingerprinted, but it is voluntary. We do it for a reason such as a job, but we know why we are being fingerprinted.

She said she understands Chief Topping's concerns that law enforcement wants to know who they say they are. However, she said law enforcement does not know that now. If the goal is safety on the road, then we might have to rethink the fingerprinting. Ms. Poretti said that when she first heard it she thought about privacy and disparate treatment. Why are we offering fingerprinting to a group of people. It is not "fair." However, if that is the only issue that is holding back the driving privilege card, she thinks the majority might want to be fingerprinted.

Maybe ICE is not deporting people, but on a regular basis people are getting picked up. She said she deals with this issue daily. Granted they are not deported but they are picked up and it is almost the same thing. Sometimes they are not who they say they are. They work under assumed names. They are living under assumed names. They might get stopped by the police and have a driving privilege card that says they are Jose but they are Juan, then what, what will happen next? What is the unintended consequence for our community if they are stopped and they have a card? Will the police officer take their fingerprints on scene?

She is wondering how the fingerprints on a Card are going to say who you are if you don't verify that somehow. Ms. Poretti stated it is the job of the federal government, not state law enforcement, to put fingerprints in a database.

Chief Topping stated it would not be the police but the DMV putting fingerprints in their database. He recommends that DMV require other supporting documentation besides the fingerprint to verify who someone is. He agreed that the applicant might not be the person he or she says he or she is, but as far as the state of Delaware is concerned, the data is for tracking purposes such as criminal offenses. He stated that he cannot task DMV to do anything. The Chief said he

understands Ms. Porretti is concerned about protecting her community but that he is charged with protecting all communities.

Ms. Porretti said she understands the Chief's comment but asked him to help her understand that if it's going to be in the DMV database and not the police database, what will happen.

Major Zebley responded that she does not take the fingerprints at roadside. She would ask for the license or the driving privilege card.

Ms. Porretti clarified with Major Zebley that it is more a reassurance to her that the person she stops is who they said they are based on a photograph.

Chief Topping said that a person does not enter the criminal justice system until the person gets stopped or convicted of a violation. There would be a record.

Ms. Porretti asked, "if I get stopped and present you with a driver's license and you have my picture on there, with no fingerprint, is that enough? The DMV vetted it and that is my picture and that is me." If that is the case, she wondered, why do they need the fingerprints for holders of a driving privilege card.

Major Zebley explained they have to focus on the potential level of forgeries. Fingerprints make it more trustworthy.

Senator Townsend asked Major Zebley if she means, in other words, "one-person-one-card"; whether the person is actually who she says she is, at the very least we could guarantee one-person-one-card.

Chief Topping said that a person might not be who he says he is, but having fingerprints on file allows for future tracking. For people who go about their everyday lives with no criminal issues, it is not a problem. But for people with criminal activity, law enforcement needs to be able to positively identify them.

Senator Townsend asked the Chief to explain what he meant by the term "tracking."

Chief Topping said he meant that law enforcement can track their offenses. You would not be logged into the system until stopped in connection with criminal

activity. He gave an example of a case where the police doubted the identity of a man because the photo on the identity card did not look at all like him.

Senator Townsend asked if fingerprints are the best form of identification as opposed to facial recognition software or all the other fancy technology available. He asked if fingerprinting is still considered the gold standard.

Chief Topping said yes.

Ms. Porretti stated that the “tracking word” was also a concern. She said there is a fine line between running a red light and the criminality piece. She said the majority of people in Sussex County are not committing criminal offenses. She asked why penalize a group of people by making them give their fingerprints. If that is the case, everyone should have their fingerprints taken.

Senator Townsend said apparently we do. In general, he stated, if you are applying for some level of privilege or status, we do require people to submit fingerprints. He understands that there is a difference for people who may be undocumented.

Mr. Torrijos said there was a Memorandum of Agreement that was signed back in January, 2010, between the Delaware State Police and the United States Department of Homeland Security. It talked about the goals of Secure Communities, trying to identify convicted criminals and deport them. Mr. Torrijos said he did not think that fingerprinting was the issue, but more the fear of it leading to deportation. He suggested maybe there could be a Memorandum of Agreement with the DMV.

He stressed that the big concern is how the information is passed along and whether it can be used against the community. He said we cannot stop the federal government from stepping in and asking for information, but at the same time the State could not offer that information and the communities would be protected. He also stated he would like to know more about Secure Communities and how the State Police interact with the Homeland Security office and how it impacts their communities.

Senator Townsend stated that is it still unclear to him what the difference is between having your fingerprint on

file and not having it on file. He said he wants to explore it a bit more after others have had a chance to talk.

Mr. Andrade suggested everyone keep in mind the entire picture. He emphasized that the discussion is about undocumented people. That is the group of people for whom we need to figure out an identification process. He does not think that fingerprinting is the best option for getting them through this process.

Commissioner Stewart, representing the Department of Insurance, said she had three experiences she wanted to share. She had previously helped a Filipino woman to become a citizen. The woman had several aliases that made it very difficult. In the second instance, a member of Commissioner Stewart’s family had come from Spain. That person had their mother’s last name, so trying to get that straightened out was challenging as well. Another example was when Commissioner Stewart chose to get fingerprinted herself. It was difficult to get fingerprints done, based on the hours it was available.

Senator Townsend agreed that the Task Force needs to bear in mind the logistical challenges.

Scott Vien, representing the DMV on Director Cohan’s behalf, doesn’t feel fingerprinting is absolutely necessary but if it is agreed upon, DMV will make it happen. The main reason DMV does not feel it is necessary is because at the core of what they are doing with licensing and highway safety, fingerprinting does not help the agency vet applicants. It does give an additional biometric or additional identifying piece as part of a record but it is not the determining factor in deciding whether or not to approve an application. It would be that they acquire these fingerprints from this individual on this day to get this license on this day. Alternatively, they use the facial image and compare it to the last photo.

Senator Townsend asked why DMV insists on making people look at the camera in a way that is entirely unnatural.

Mr. Vien and others chuckled. Mr. Vien said that they may change that with new technology but the original intent behind the neutral expression was simply to standardize that facial image.

Senator Townsend asked whether the vetting based

on facial recognition is instantaneous.

Mr. Vien answered yes. If a photo is in the DMV database, within seconds you can compare it to all 4 million photos. He said that if there is someone who looks like another person, the agency will find out and look into it right away, and they go from there. You have to be in the DMV database. If you have a different name with the same image, DMV will not issue a license. The DMV staff would tell the applicant that they need to take a further look and will contact the person later.

Senator Townsend said he thinks this next question is pretty important in terms of what the Task Force is discussing here: what is the error rate or the success rate for facial recognition versus fingerprint comparison. Speed may be an issue but from an accuracy perspective, how much better is it to have fingerprints as opposed to the facial photo.

Chief Topping commented that maybe in a controlled environment facial recognition is reliable, but when you make a traffic stop at 3:00 a.m. in the middle of a rain storm, that picture is not going to look very good. We can take a device if we need to take a fingerprint. Facial recognition is good in the DMV but 99.9% of the time the police are not in the DMV. Police are often on the side of the road.

The Task Force is not talking about giving someone a passport or allowing them into the White House, but rather is talking about a driving privilege card. The fingerprint, for the police, since the days of J. Edgar Hoover, has been their go-to method. Chief Topping gave an example regarding a person they had who was in the database and had a picture. They fingerprinted him and the picture did not match the person they had in custody. He wanted to make the point that it is a better process of elimination for the police if they have a biometric they can use on the side of the road or in a criminal offense situation.

Mr. Vien stated that the fingerprinting will not help the people at the DMV who are doing the best they can to establish that person's identity. It will not help in that initial vetting process.

Senator Townsend clarified from an identity perspective.

Mr. Vien said what it will do is establish another biometric which could be helpful down the road. It will not help in the initial identification process.

Chief Topping said you are talking about eliminating 4 million people in Delaware. Not necessarily comparing that biometric or that face to the 250 million other licensed drivers in the country. With the fingerprint, the police can track across the country.

Mr. Vien commented that he was only talking from the DMV perspective. If the DMV is tasked with issuing these cards, then the DMV are the ones who will be identifying these individuals.

Senator Townsend clarified that what the Chief is saying is that when you are doing a DMV facial comparison, DMV is working with a database of about 4 million entries. The Chief's point is that a fingerprint comparison involves far more people across the country.

Mr. Vien stated the DMV does not have the mechanism needed to capture fingerprints accurately, store them, and share them.

Chief Topping said that the process is electronic and simple, as opposed to the old days of using ink pads.

Ms. Porretti wanted the Chief to clarify if they do have the capability, while making a stop, to check fingerprints, and do they currently do that.

Chief Topping responded that, yes, he soon will have that capability. They do not have it yet but, as he stated earlier, they are getting new devices that look like cell phones that will be able to take the prints. The other point he wanted to make about the driving privilege card is that, collectively, we have to protect victims too, not just drivers.

Ms. Porretti said she gets that. But in response to the Chief's comment that they will have capabilities, that is the part that concerns her because there is the potential for abuse. She commended the Chief for his personal handling of these kinds of situations, but she said she knows that there are some other law enforcement personnel that could abuse this capability. She is aware of many stops and tickets that say "driving without a license," and she wonders what the cause was. If you have the capability now or will have it soon to check

fingerprints randomly, there is potential for abuse. The more she hears, the more she has concerns that there will be potential for abuse by officers checking just to make sure that they are not criminals.

Mr. Torrijos asked the Chief if, in the case of a driver with a regular driver's license, there would not be a fingerprint search, why would police seek fingerprint verification in the case of a driver with a driving privilege card?

Chief Topping said the only reason would be if the police stopped someone and the person did not have his driving privilege card, in which case it would be a violation. The person can tell the police that they have a card but simply do not have it on their person. The police can then contact DMV. DMV may come back and say the person is a licensed driver and provide the license number. If that were the case, the police would have the necessary information and the person would be on his way. The police would not be contacting Immigration.

Mr. Torrijos asked why that is any different from a normal driver.

Chief Topping said it is not. The same thing would happen to anyone who does not have a license in their possession. The police can take a fingerprint right on the scene and it shoots to the State Bureau of Identification, who will tell us who the driver is.

Senator Townsend asked what happens if the person stopped is someone who has never had his fingerprints taken before, and if the scan comes back with no hits.

Chief Topping stated that it would say "No Record Found."

Senator Townsend asked what law enforcement would do then.

Chief Topping said they would take the person back to the station and get ten prints. The fingerprints on the scene are an index finger and middle finger.

Senator Townsend asked if a Caucasian male was pulled over because he had a tail light out and did not have a license, would law enforcement take him and do a full print on him.

Chief Topping said yes, because they would not want to risk letting someone go who might very well have committed some sort of serious crime. He said that if they have reasonable cause to take someone's prints, they will do so. They must have a reasonable cause to run the fingerprints. If a person who is stopped gives a false name to a policeman who knows that the name actually belongs to another person, then, yes, the police will conduct due diligence to positively identify that person before the police send him on his way.

Ms. Porretti gave an example where she was stopped in the State of Delaware and had left her license at home and no one took her in. She wondered why it would not be a normal stop for others.

Major Zebley stated that the Delaware State Police currently do not have the technology to take fingerprints at the scene of a roadside stop. Traditionally, if a person who has been stopped has a card or can be identified in some way that the police officer is comfortable with, there will be no fingerprints taken. She reiterated that she currently does not have the technology to do fingerprinting in the field. Major Zebley stated that one of the reasons fingerprinting is being recommended is because this is a national trend. Other states are looking to do the same thing, since states that have implemented a driving card system recommend fingerprinting based on their research. The State Police fingerprinted 50,863 people last year. That is probably an average of what is typical, for a variety of reasons.

Ms. Battle asked, with technology changing and moving towards fingerprinting more people, is the software available to eventually have everyone get fingerprinted?

Senator Townsend said it is a combination question for DMV and law enforcement. DMV is where everyone would flow through, as opposed to the police.

Ms. Battle stated that in New Castle County she would go to Troop 2 to get her fingerprints, and then when it is time to renew her license she would go to DMV. She asked if that is going to be a requirement for all of us eventually.

Mr. Vien said there is no discussion at DMV on this issue.

Chief Topping stated the Task Force discussed it in the last meeting but the police cannot give the DMV any fiscal responsibility.

Mr. Vien reiterated that there has been zero discussion about that topic internally within DMV. He does not know of any DMV throughout the country that does this, with the exception of Utah for their Driving Privilege Card.

Ms. Battle stated the driving privilege card is just for driving and should stay in your car, as it would not be used for any other reason.

Chief Topping said it is a form of ID, so other people will ask for it. It should be a quality product and will become an accepted ID card. It will not just be a driving privilege card; it will be an ID card.

Senator Townsend said not officially. Practically speaking, it might end up being used as that.

Mr. Torrijos asked Senator Townsend if he could give the floor to Pastor Rene from Sussex County.

Senator Townsend noted that this was the Task Force discussion part of the Agenda and that there would be a time for public comment. He stated that he had made an exception when Mr. Torrijos asked for Mr. Andrade; however, he wanted to remind the public and members the importance of Task Force members' discussion for the report, due later in the month. The Senator then told the Pastor to please go ahead and speak now.

Pastor Rene Knight, representing the United Methodist Church (UMC), noted he was at one of the Task Force meetings in Dover and would like to now comment. He stated that people want to be able to drive without fear. However, he believes that if the fingerprinting is part of the proposal, it will cause damage. People will connect that to Immigration. If the fingerprints at DMV do not really add to the ability for people to prove who they are, then why do we need to add to the fear.

Senator Townsend stated he does not think it is a matter of them proving who they are. They are somebody and they are being put into the system. By having a photo ID or fingerprints, DMV can try to make sure that one person only ever gets one card. People cannot

sign up for multiple cards for fraudulent purposes that we do know exist. No one is proving ultimately who they are because we cannot verify all the documentation. It would be a way to prevent people from getting multiple cards.

Pastor Knight suggested that in order for someone to receive a privilege card, they would have to prove who they are with the documentation that is required.

Senator Townsend said that the Delaware DMV is not in a position to certify whether or not people are exactly who people say they are. All the DMV can do is the best they can do and make sure that people walk in one time only, receive one card only, and cannot come back and get other cards to be used for fraudulent purposes or to sell to others.

Pastor Knight said his experience is that the DMV has the capacity to identify, because they have the data.

Mr. Vien agreed with the Senator and said it is very difficult to validate some foreign documents. They can be very easily forged. The DMV will absolutely try but there is no system to say "yes, that document is undoubtedly authentic."

Senator Townsend added that is why the cards would not be an official form of ID.

Pastor Knight is concerned there will be an issue if we require a specific group to be fingerprinted. If all have to be fingerprinted by law, that would be fine. He feels it will not be okay if just the Latino group is being fingerprinted.

Mr. Vien said that other databases have to be accessed for electronic identification. Foreign documents are especially challenging, and that is why they do not have that level of confidence with everyone else.

Mr. Somalo stated that the trend of fingerprinting has helped in other states.

Mr. Torrijos said that the high number of people who do go to the DMV to get a license suggests the DMV usually can confirm who the person is.

Mr. Vien responded yes, with a high level of documents or additional databases.

Mr. Torrijos said that fingerprinting does not help you in any fact-finding of that person's identity.

Mr. Vien stated there would be no validation from the fingerprinting.

Senator Townsend commented that it was a good point.

Mr. Torrijos said there are two separate issues. One is that we are trying to get people to drive safely in Delaware. And the other is that law enforcement is seeking information as to whether there is criminal activity that a card applicant could be tied to. He asked the chief if that is correct.

Chief Topping said he would not classify it like that. If he pulled someone over and she gave him her driving privilege card, he would look at it and determine if he would give her a ticket. However, if the person had been involved in a criminal offense and she presented her ID card, they could track that ID. This is an immigrant driving privilege card. It is not just for the Hispanic community. It is for any community. The issue that the Chief has is that he wants to know whom he is talking to. It is not about the Hispanic community. He has doubts about any ID card that is given to law enforcement without a picture on it.

Right now, there are people driving who are afraid because they do not have anything. They cannot get back and forth to work. We have established that we need to know who they are. Undocumented people do not come here with a lot of documents, so what is the DMV going to use to verify who they are. Someone mentioned passports, and the Chief commented that many do not come with passports. When that happens, the consulate comes to the church and issues a passport.

Pastor Knight said that Guatemala gets the government to issue the passport.

Ms. Porretti said for La Esperanza the bottom line is, if the fingerprint is required it will chill the participation of potential applicants for the driving privilege card. Many will not sign up to get it because of fear. In today's climate, in 2014, seldom do people who come to the U.S. undocumented go on the path to citizenship. The other issue is the language barrier. If a person is stopped and has to do fingerprinting, because of the language barrier

the person will be afraid because he or she will think it is some form of Immigration involvement. Kevin Andrade's radio station can help educate and send the message, but it will still be a challenge to communicate the message. It is a concern if you do not speak English and you have to get your fingerprints taken.

Senator Townsend stated that, for the time being, they will be flexible with public comment. He noted they were speaking English in the meeting and he is still not sure everyone is communicating. He said it is important to bear in mind that the concern that fingerprinting will chill participation is valid. He noted that fingerprinting was discussed at the last meeting and, while it seemed to be okay at that time, clearly it is not now.

Communication to the community and public education is important, as well as many other details and types of training. This discussion led him to suggest that perhaps the Task Force needs more of a bulleted list of what else needs to be done, rather than a report at the end of the month. Now we are talking more about the lack of trust or common understanding of what the Task Force is discussing. It is essential to reach an understanding in this room before we can communicate to the community. He is hoping that in the next 20 minutes we will get there.

Major Zebley wanted to clarify Senator Townsend's last point. She also noted she would not be taking fingerprints roadside. The driving privilege card stands on its own. She said when she is talking about fingerprints it would be part of the identification process, not roadside. Only some agencies have that capability and the Delaware State Police does not. In order to adopt any project such as this, there is the implication of fraud. Other states have found that to be a big issue.

Community outreach will need to be done to combat the fears. This is a national theme that has been researched. Major Zebley recently attended a DMV conference at which one of the sessions was on undocumented driving privilege cards. Fingerprinting for the driving privilege cards is the national trend for law enforcement in states that are adopting this legislation. This is not just Chief Topping and Major Zebley trying to impose this. It is being talked about nationally.

Mr. Andrade said he had a couple of questions. If the DMV does the fingerprinting, will they have the machines right there?

Mr. Vien stated he had no idea.

Senator Townsend responded, possibly.

Mr. Andrade said that a Homeland Security person told him that passports have a high standard of security. Mr. Andrade suggested a solution would be to obligate them to have a passport or second form of identification, but not fingerprints. If the State is not authorizing the driving privilege card as an ID, why obligate an applicant to get fingerprints.

Senator Townsend asked what percentage of undocumented persons are we dealing with who do not have a passport. He did not expect Mr. Andrade to know the answer to that. However, everything Mr. Andrade just said is based on the idea that an undocumented person has a passport. He also said a passport or a second form of identification. Senator Townsend asked him if he meant a second form of ID in addition to the passport.

Mr. Andrade responded yes.

Senator Townsend said okay, so not instead of the passport.

Mr. Torrijos said right now we are giving them a license or a driving privilege card.

Mr. Vien explained the process regarding the DMV verifying the documentation and determining if they can get a license or will need a driving privilege card. Fingerprinting is just another data source.

Mr. Torrijos said he understands that the purpose of fingerprinting is to minimize fraud. He asked in what direction states are moving. Are they moving toward ten-point fingerprinting.

Major Zebley said that at this point it is a validation point beyond DMV, and that would be for law enforcement. Law enforcement does that daily for anyone. It would be no different for this group. Getting their fingerprints is another measure to validate the card.

Ms. Porretti wanted to ask a question because she was a little confused about something that was said earlier. She asked for clarification as to whether or not Major Zebley and the State Police, have the ability to take fingerprints at roadside. Will they have that ability.

Major Zebley said that if a person is stopped beside the road and there is a need to further investigate any kind of scenario, such as, if the person does not have their card or is not in the system, the person would be coming back to the troop.

Senator Townsend commented that her point also was that the Delaware State Police do not currently have the technology that Chief Topping has.

Major Zebley stated, nor would the State Police intend to—that would not be in the spirit of the driving privilege card.

Senator Townsend clarified that the issue of fingerprinting does not really matter to Major Zebley right now because the state police do not have the technology. However, the community might feel that, while this might be fine now, perhaps someday the technology might be available.

Major Zebley agreed that at some point they might obtain the necessary technology, but she did not intend to fingerprint.

Ms. Porretti said the major mentioned that there is a tremendous amount of fraud nationally. She then asked if anyone knew the percentages, because “a tremendous amount” could mean various things.

Senator Townsend stated that, while they had discussed this data at the first task force meeting, he did not precisely recall it at the present time. Certainly there were clear signs that far more people were signing up for these cards than should have been. Far more cards were being issued than should have been.

Major Zebley stated that, for certain populations, the cards issued far surpassed the total that should have been issued. And those represented the fraud cases.

Commissioner Stewart said she was a little confused, too, because Chief Topping said he did have the phone-like device to take fingerprints. The overwhelming issue

is that a person must have a valid passport from their country of origin. That seems almost a necessity if we are looking for one item that is paramount to have.

Senator Townsend said he really appreciated her comment and that Kevin had made a similar point. His response to that is he would rather that those people who do not have a valid passport be part of the system on the roads, with the eye exams and driving tests, and have the confidence that, if they get pulled over, they will have a document that says they are part of the system and they would not have to drive around in fear. It would be nice if they have valid passports but (1) he is not sure that DMV's position is that all we need is a valid passport, and (2) what percentage of undocumented Delaware residents do and do not have valid passports? Is it an overwhelmingly high percentage?

Mr. Andrade stated he has been working hard with the community. He asked Chief Topping what he thought the percentage would be.

Chief Topping said he cannot give a percentage, but from his personal experience he has seen people come in with passports and there is no entry visa stamp. They get issued at the church.

Pastor Knight said they get a passport through the church through the proper channels with Washington, D.C. or Philadelphia.

Chief Topping reiterated he could not provide a percentage.

Senator Townsend said he is not holding anyone to it.

Mr. Andrade said that in his country, if he did not have his own passport, he must have the correct documents. Every country is different but there is a high standard of security. Homeland security has to approve the passports. The passport will be good to use because it has been pre-authenticated.

Senator Townsend stated that it is an additional layer of protection against potential fraud and confusion to have fingerprints or a photo onsite at the DMV, relative to relying on a pre-issued passport. The biometrics of facial recognition and fingerprinting seem to remove more doubt as to whether or not a

document is fraudulent, and whether or not a person has been there before. The Senator wants to try to help other Delawareans understand why this system is worth doing, and why Delaware can do it well. It does seem like the fingerprinting issue could cause problems in terms of having this be part of the system in Delaware. He also understands that a fingerprint requirement can have a chilling effect. If we have the fingerprints onsite at the DMV, the idea is that it helps to verify if that person has been there before, and is a way of helping to prevent the issuance of fraudulent cards. In addition, law enforcement has openly talked about the usefulness of having the fingerprints on file.

The Senator understands why that creates a lot of questions and doubts in the minds of people. We are not talking about if someone gets stopped with a privilege card they would have to give their fingerprint. Being stopped with a privilege card is just like being stopped with a regular driver's license, unless there is some special circumstance, such as the photo not looking like the person, thereby creating a reason to think that the person who has been stopped is not the person listed on the card. But that is the end of it.

So then we are talking about whether or not these databases are open to officials in the context of a 3:00 a.m. traffic stop in which the driver does not have his card. The officer would do a scan because the driver does not have his card, and if it does turn out to be the person, then thank goodness he does have his fingerprint on file because, otherwise, he might be hauled down to the station. And then he would get all ten fingers fingerprinted.

Senator Townsend said he is trying to understand the actual negative impact beyond a very legitimate psychological concern. He acknowledged that he does understand the psychological element. Do we think it is wrong to have someone's fingerprints on file because of some chance it might not be used for the correct purposes. There is so much data that people have on us, and fingerprinting seems so miniscule in comparison to all the other ways people can be tracked. He wondered if, at some point, people would be okay with everyone being fingerprinted. It seems an invasion of privacy but would it help us solve crimes. Are we talking about people in the community who will not sign up for these cards because they know that if they are fingerprinted they would be identified as having committed crimes

in other places. But if they are not required to be fingerprinted they will go sign up for these cards. Let's talk about law-abiding people, who, other than not being here legally, do comply with all other laws. Wouldn't they go sign up because they are law-abiding and just want to be part of the system. Are we saying that those people will not sign up too.

Mr. Torrijos said people who are law-abiding have nothing to fear. But the issue is that they are here undocumented.

Senator Townsend replied that he understood.

Mr. Torrijos said it is a fact that these people want to drive safely. They want to be out on the road. He then stated several questions the undocumented individuals have:

- Where is the information that is collected going.
- What is going to happen with that.
- Is it going to be used against me.
- Is there going to be a raid in the middle of the night.
- Is the information going to be sent to other organizations.

Senator Townsend asked what is different about having their fingerprints on file, as compared to walking in and having their picture taken, in terms of the federal official going to their home. What is it that makes federal officials go to their home because they have fingerprints, versus only having their name, address, and photo on file.

Mr. Torrijos said it is the perception. They feel that they are being treated differently. The majority of people do not have to get their fingerprints to get their license. People who are applying for a driving privilege card are being singled out, and it is not just the Hispanic community. It will be anyone applying for a driving privilege card who would be singled out. The information possibly could be used against them for deportation.

Senator Townsend said he does not understand what will be used against them.

Ms. Porretti said fingerprints are clearly identifiable. No two people are the same. Imagine if you are living here undercover. No one knows who you are. You might have a passport that might or might not be yours. You might be working under an assumed name. You are able to assimilate and travel without anyone really knowing who you are. If there is a fingerprint on file, it scares you. It is not just perception. You know that if you are stopped, someone knows who you are, and if you are undocumented the fear is strong.

Senator Townsend said the whole point is that we are trying to make it so that when undocumented individuals get stopped we do know who they are. Moreover, these individuals are otherwise willing to walk in to the DMV and say "I am undocumented and want to get my photo taken so I can be part of the system," so the Senator does not understand the idea of "they know" being a reason to hesitate getting fingerprinted.

Ms. Porretti responded that the fear relates to a lack of trust in law enforcement. Undocumented individuals think law enforcement will tell Immigration, regardless of what has been said at the Task Force meetings.

Senator Townsend said he understood, but asked what is the difference between a person courageously walking into the DMV for their photo to be taken and basically have a card that clearly shows that they are here and not documented, and getting their fingerprints taken at the DMV. The only thing that seems different is that by giving their fingerprint, they are increasing the chances that they will be identified if they are already in the system for something else. The Senator said he can think of two scenarios:

1. Are your fingerprints on file somewhere and have you committed a crime.

Or, 2. Are your fingerprints on file somewhere because you have come across the border in a way that your fingerprints were put into the system? And do we think that the Feds are going to somehow show up and swoop you away because now they can match your fingerprint from that instance to your fingerprint at the Delaware DMV, as opposed to knowing that, once you walk into DMV and have your photo taken, the authorities will know that you are here illegally.

Ms. Porretti said that anyone can always deny

that the photo is them. They cannot say that about a fingerprint. Some people will think “I have done something criminal and I do not want my fingerprints taken.” But there are also mothers who just want to be under the radar. They are afraid. Some are victims and do not want anyone to know them. A fingerprint is definitely clearly identifiable.

Commissioner Stewart gave an example of her own family background coming from other countries. She explained that it is a communication difference and an ideology difference. It has nothing to do with feeling guilty about having done something. She gave an example of being a Western thinker versus an Eastern thinker. Most people from Latin America, South America, Mexico, or Europe have a passport. If they do not have a passport, well they need to get one. The passport is verified by their particular country or agencies representing their country. Therefore, they think that is easily verifiable and they are very proud of that. Many people came to this country to escape and to seek safety. Their fear of being fingerprinted is not because they think they are guilty, but rather because they have a different way of thinking. They do not think like Americans. They have a different point of view.

Senator Townsend thanked the Commissioner. He clarified that he is not trying to say that this psychological fear is not valid or reasonable. He is just trying to marry it with the realities of how to make a policy work through a legislature. We are in a world now, he said, where one’s fingerprints are irrelevant to what can actually be done to steal one’s identity by using other information that is already out there. He said that he does not mean to belittle peoples’ fear, but he is trying to minimize it in the context of balancing the pros and cons of this effort in a way that still seems worthwhile. The Senator stated he could be wrong about that and he is not saying that it is an extremely challenging task for the community to do outreach and to build more trust.

He said that some of the Task Force members have said that they do not trust law enforcement. Several of them have clarified that they are not talking about Chief Topping, but other members of law enforcement or just the general fear. The Senator has not heard the actual difference between someone’s actual chances of being apprehended, of being deported, of being identified; the difference of having the fingerprint as part of the DMV’s process versus not. Either way, they have walked into

the DMV and have knowingly identified themselves to the community as someone who is not here legally. They have had their photo taken, they have had their card produced, and Major Zebley is not going to ask them for their fingerprint if they have their card. Senator Townsend said that he still does not understand what it is about having their fingerprints taken that will actually cause a difference, unless their fingerprints are already on record somewhere else for a crime. He still has not heard anything else, other than the very reasonable psychological reality that he thinks ends up coming from the community outreach perspective.

Mr. Torrijos said he does not think anyone will disagree with what Senator Townsend just said. He said he thinks we have to go back to the original purpose of the Task Force. The members are trying to get the community to drive safely on the road. If that is the goal of the Task Force, should we not look at the best way of getting them on the roads safely—so that they all take the eye test and the driving test and drive safely in Delaware. How do we do that. Do we put more roadblocks in their path or do we set the standards so that they are achievable.

Senator Townsend said be careful with the word “standard,” reiterating that we know it has a chilling effect. The Senator reminded Task Force members that one of the application requirements would likely be two years of tax returns. So what is the difference with their personal information shared on that document?

Mr. Torrijos said we are trying to get many individuals to participate in the driving privilege card so that members of the community can drive safely on the roads of Delaware. The biometrics of facial recognition greatly reduces the amount of fraud. It would be great to have fingerprints, but if that is going to prevent the Hispanic community from coming to the table and getting the driving privilege card, then we should reconsider that part. It is not an obstacle but our concern is that the community may not respond to the fingerprint requirement. Is there something else that can be added that may encourage them. Mr. Torrijos stated that he did not have an answer himself.

Ms. Battle stated that fingerprints are meant to prevent identity theft. That is a positive thing. She hopes one day the technology will be there so we all can be fingerprinted. She said she would not mind if it is

going to prevent fraud. Ms. Battle said that she thinks that some of the members may have put the fear in the people because when she talked to them, they had 15 to 20 people coming in, applying for their passport and being approved. They are preparing them so that they will have the right documents for the driving privilege card. We provide the taxes for people and we just found out that the State is holding their money because they want them to prove they are who they say they are. As far as the trust factor is concerned, we, as the Task Force, can establish what we need to say.

There was some confusion about the technology available for roadside fingerprinting. Chief Topping responded the difference is because of the different departments.

Ms. Battle said she thinks the Trust Act will help us a lot because, if it is a routine traffic stop, law enforcement cannot turn people in to Homeland Security or ICE. If you have to go before the judge for a traffic ticket, the judge cannot turn you in. Some states have tried to put protections through after passage of the card law and the projections were rejected, so it would be helpful to include the Trust Act as part of any proposed legislation.

Senator Townsend said he is glad Ms. Battle brought the Trust Act up. At previous Task Force meetings we talked about what would prevent the Feds from swooping in and asking for information. Would the community feel more confident if we had the Trust Act in place? He mentioned he would not be surprised if the answer is no. The Senator also understands the objection from law enforcement officers who are professional and are not going to ask people for fingerprints just because they look a certain way. That is why this is a tough issue.

Ana Velasquez, representing the Latin American Community Center (LACC), stated that whether you are fingerprinted, or just go and give your information, the concern is what is going to happen to that information. It goes back to the Trust Act, and having some level of assurance. She does not want to go back to the community and tell them to trust the process; she is not going to do that unless she knows for a fact that her community is protected and that the information they provide will not be used against them. Ms. Velasquez stated that she would feel very uncomfortable participating in this campaign if that is not the case. She also agrees that the fingerprinting does provide a

chilling effect but she does think we can overcome it if we have a very strong educational campaign. Can we go through the education campaign and assure community members that they are protected.

Chief Topping said that he thinks there might be a misconception about the database of fingerprints. Not just anybody can get to these devices: (1) there must be a reason to access the database; (2) you have to have the authority to access the database; and (3) as a police officer, you must be addressing a criminal event. Chief Topping and Major Zebley discussed at the last meeting that the driving privilege card must have some sort of validity and authority. Undocumented aliens may or may not have a passport. We must reach those without passports as well. He said he does not think anyone should worry about the data that they provide, because law enforcement officials do not just access it or randomly go into the database to find out what random people are doing.

Senator Townsend said he understands and agrees that those are real concerns. But as far as the Trust Act goes: as law enforcement, can you publicly say that people can trust that law enforcement is not going to be running fingerprints if people present their cards.

Chief Topping said that he was not sure if a Trust Act would pass the legislature if it requires police to not do what they have sworn an oath to do.

Senator Townsend responded that he understands and that would depend on the appropriate wording. Do we have to say that these fingerprints that are taken at the DMV when you get your card will not be used to compare with crimes across the United States. We in Delaware are openly saying, give us your fingerprints, you will get your card but we promise you we are not going to care whether you are wanted for murder somewhere. A lot of people will not be impressed with the idea that we are not going to use the information to check to see if people are wanted for various kinds of crimes. This is a concrete example of what could happen. We need to understand what could be part of a Trust Act, so to speak, and what could not be part of a Trust Act. We probably cannot say we promise we will not run your prints to see if you are wanted somewhere. Would we say we promise not to provide them to the federal government for Immigration purposes? That is a little different. What would law enforcement be okay

with and what would the community be okay with?

Mr. Torrijos stated that he does not think they want to be treated any differently than anybody else. What it comes down to is for Immigration purposes.

Senator Townsend clarified by stating that Mr. Torrijos means the fear is that it would be used for Immigration purposes.

Mr. Torrijos confirmed that was right. If there is a Trust Act, however the language is written, it should relate to information not being sent to Immigration. If the issue is criminal, that is different.

Senator Townsend responded that if it is a serious criminal issue, it also would kick it into the Immigration process.

Mr. Torrijos said if it is criminal activity and leads to Immigration, that is a totally different thing.

Senator Townsend said he wanted to make sure.

Mr. Torrijos said if someone is undocumented and stopped and now that information is going to go to ICE or Homeland Security, that is the distinction. If there is a Trust Act we need to get some assurance that that information is not going to be sent to ICE.

Senator Townsend stated that it appears the Task Force is honing in on the issue of a direct connection between a DMV database, or whatever the database ultimately is, and the Federal Immigration authorities.

Ms. Velasquez responded that it is important to have something that we can reference as to what are the protections of the people who apply for the card within the law. We understand the law and that they are undocumented, and what should happen if they committed a serious crime. We need something in writing that says "this" can be done and "this" cannot be done and these are your protections.

Chief Topping stated that if someone goes to the DMV and has fingerprints taken, and if it turns out those fingerprints are connected to other criminal activities, law enforcement is going to arrest the person.

Senator Townsend responded that none of what the

Chief and the Major brought up today has an impact on people's day-to-day activities. After doing a ride along in Wilmington, the Senator completely understands why law enforcement wants to know who it is they are talking to. He does not fault them for that at all. If that is not what law enforcement was asking the Task Force about now, then why would there be opposition to a Trust Act.

Chief Topping asked the Senator to clarify opposition.

Senator Townsend said he meant opposition to language that would say to the best we can as a state we are not going to connect this database with the Feds.

Chief Topping stated he did not think that would be a problem. But you cannot tell law enforcement that they cannot do their job. In other words, if the political environment changes, whether we have fingerprints on file or not, they can come to Delaware DMV and give you a court order to produce all of your driver's license that say driving privilege card. The federal government can do what they want with that information. Now whether fingerprints are included in that information is immaterial. If you have facial recognition, addresses, and dates of birth on the card, he cannot tell the federal government he is not doing something.

Senator Townsend said he understood that. As the meeting was running over, the Senator thanked Mariclaire Luciano from Senator Bob Marshall's office for being there, as she had to go. He also took this time to thank Michelle Zdeb and Shelley Earley from his staff for their assistance with today's meeting. As far as fingerprints, unless we are saying that a federal official or state official is going to be going around a community in Georgetown or a place of employment and taking fingerprints off of counters or glasses or cups, he does not see how this has an impact day-to-day.

Chief Topping stated they do not do that now.

Senator Townsend said he knows they do not do that now. If they know not to go do that at that place, they are not going after fingerprints.

Major Zebley said the card would be institutionalized. It would be recognized by every officer in the state if this is a legitimate driving privilege card.

Senator Townsend said he understood but clarified that he is talking about people's fear of how fingerprints will be used. The only way to match it up to someone who is not involved in a crime or other kind of stop is to go around and lift prints. It is absurd that that is going to happen.

Chief Topping said he has been doing this in his jurisdiction for a lot of years. We have not found a way to relieve those fears. With every law that has been introduced or tried to pass, it has to benefit the majority. It cannot benefit every single one. We are not going to be able to do away with all the fears that some people have ingrained in them that law enforcement officials are bad and they are going to take people's money. We cannot change that in legislation. But we can provide for the majority a mechanism for them to have a driving privilege card.

Senator Townsend asked Chief Topping when he said majority and minority whether the Chief was talking about the majority of the community not having fear and the minority having fear. Some of the laws the Senator is most proud of in this country do benefit the minority, which does make us better off as people. The heart of what we are talking about here is that there is a segment of the population in Delaware and nationwide that we are trying to show how to integrate into society and whether to integrate into society. And to Claudia's point earlier, we have very little reason to believe that the U.S. Congress is going to actually take action in a sensible way on this issue so we in Delaware are trying to do what we can do. The Senator stated he is trying personally and has colleagues who support him in doing what we can. He feels that we are at this logjam now where what we can do is limited by whether fingerprints are part of it. It is all we have talked about during the course of this meeting and that is okay.

Ms. Porretti restated that she has been against the fingerprinting since she heard about it and we have talked about it, mainly because of the privacy and immigration impact it will have. She stated that Sussex County is unique. The Hispanic community there is not the same as in New Castle County or Kent County. The fear is real. It is not just potential for fraud, it's potential for abuse. She said she has the tickets where the only infraction is driving without a license. How did that officer know that. Yet people get pulled over all the time. Chief Topping and his law enforcement do

not do that but others do, such as in Millsboro, Laurel, and other places in Sussex County. If it is not driving without a license then it is driving without insurance. She said she has studied the law. She emphasized that there is the fear that if there is an identifiable fingerprint it is just going to lead to Immigration. Yes, a Trust Act would be great, but for many people, they do not trust the government.

Senator Townsend stated he understood, he really is trying to drill down to what the difference is between having the fingerprints and not. Some fingerprints are collected at the border sometimes and then they can be matched up here and if that triggers a flag in D.C. then all of a sudden fifty people in Delaware just verified that they are there. If that is the case, the Senator understands the fingerprinting concern. But he does not understand the other scenarios. They are all valid concerns but they are more related to general community outreach about general police-community relations, not about whether or not we have fingerprints as part of a process.

Chief Topping said if we are successful and get this program through, a lot of that stuff will stop. The reason it will stop is that people would know they are going to have a license.

Ms. Porretti said we might have to wait and see, because although the Senator may absolutely be right about there not being a difference between fingerprints and no fingerprints, for some people there could be a big difference in willingness to participate. So instead of 70 or 80 percent participation you might only get 30 or 40 percent until the system is shown to work.

Mr. Somalo talked about cases in Maryland where there is a perception that information was given to immigration.

Senator Townsend said that he cannot emphasize enough that his intention is in no way, shape, or form to connect those agencies' efforts. If that is what happened in Maryland, the Senator thinks it is very, very unfortunate.

Mr. Andrade gave an example of situations in Salisbury, Maryland, where people got pulled over for having no license, and were arrested. They got bailed out and in the courthouse they paid the fees and then Immigration was right there. Mr. Andrade said he

wrote a letter to the Governor to address this situation but nobody can touch Immigration. It has happened over and over. Congress has to pass a law to address this issue. People want to be identified, but there is fear of fingerprints. People would rather say “here is my passport or my two years of taxes,” or take a picture.

Senator Townsend asked why is it that they are willing to identify themselves so publicly in all the other ways.

Mr. Andrade said Secure Communities is the problem. It has been in place since 2006. They have a fear about the fingerprints. A lot of people are being deported.

Senator Townsend said he would appreciate it if Kevin would reach out to his community and have the discussion. He stated that he would look into Secure Communities. He emphasized that he has still not heard actual differences that happen as a result of the fingerprints. Secure Communities sounds like it could be something. Bear in mind that we are talking about people who have volunteered to go into a DMV and identify themselves as being here illegally. They are doing that already. He said that he does not understand where the fingerprint part makes a difference beyond the psychological, assuming we are not linking the fingerprints to a Federal database.

Mr. Andrade said it is just the fear of the federal government having access to that database.

Senator Townsend responded that education is a key part, then. There are times when fear is irrational. There are times that things do happen with law enforcement in Delaware. Law enforcement is not perfect. However, he has yet to hear why it is so different to ask for their fingerprints as opposed to not doing so, when they are already self-identifying in biometric ways that they are here illegally. He apologized if there is something about why he does not understand it.

Ms. Porretti thanked the Senator and said she was thinking the same thing and is trying to formulate an answer that will make sense. She gave an example of getting a driver’s license in another state and if it is lost or confiscated it is gone. But if law enforcement has her fingerprints, they will always know who she is. Many people have lived so long in the shadows. They do not need a driver’s license. They have been driving

around a long time without one. Her point is if they have the fingerprint, there is abuse. They say I have your fingerprint and I can turn you in.

Senator Townsend said he does not understand something about the mechanics of this, where having a fingerprint on file results in increased risk of being turned in. There would have to be several steps in between.

Chief Topping said it has to be a psychological state of mind with a certain group of people that have an abhorrence of official authority, and a lot of those people do. They do not want anything to do with the government. But they do not understand that the police do not care about randomly searching for fingerprints. Your fingerprints can be on file from the time they are taken until you pass away and never be accessed or ever be seen. Unless you commit a crime or have law enforcement contact where it is required that they check your fingerprints, the police are never going to see it.

Senator Townsend said that, even if the police were required to check someone’s fingerprints for some reason, he does not understand how that immediately causes a problem any differently than when someone has their photo taken and gives their address. What is it that puts someone in a more compromised position by giving their fingerprints, unless the person has committed a crime before and a fingerprint check triggers a search in which it turns out that he is wanted in another state for something.

Ms. Porretti mentioned it is what Jose said, too. In Sussex County, if people hear something that might not even be true, they still associate fingerprints with ICE.

Senator Townsend stated that we have a big educational outreach challenge here. The idea of linking the fear of ICE to fingerprints is odd because the person had already walked in and signed up, so ICE could have gone in anyway, since they had other information about them. What is it that is so special about fingerprints.

Ms. Porretti said if they have a license, she thinks in their mind they do not put a lot of weight on going into the DMV because they have never done that.

Senator Townsend responded they are wrong and

we have to help them understand one by one and win their hearts. He expressed his frustration. Their individual fear that paralyzes them is going to paralyze the legislation. "If you want to roll the dice to see what happens, we can do that," he said. The Senator said that he would rather work with the members and work with everyone one by one to show that this is not happening, rather than allow that fear to stop the process.

Commissioner Stewart said she understands his frustration. She gave an example of her own mother being fearful of being deported. It is an ideology that is much inbred over hundreds of years. It is difficult to change one by one. It is generational.

Senator Townsend said that he does not think it is anything that will change overnight. He does think it can be changed, one by one, with very hard work.

Commissioner Stewart said it takes over 20 years. She has worked with this issue and it takes generations. It is at least a 20-year process.

Senator Townsend said he understands. However, if it is going to take 20 years, he said, he does not see any more reason to delay.

Ms. Velasquez said she thinks it is definitely worthwhile looking into Secure Communities because it might connect with when you come into the country. There could be a linkage that could be harmful to the Hispanic community. Secondly, in Pennsylvania, it took her three months to get her license even though she had the correct documentation. Her experience there was that there was a link between Pennsylvania's DMV and Immigration. She is not sure if that is the case in Delaware.

Mr. Vien said that yes, we can utilize that but they are not feeding that into us.

Senator Townsend said that seems to be more a connection between the federal officials and the state officials, not whether or not the state officials have fingerprints.

Ms. Velasquez said that is correct and that has been her point since the beginning. "For me," she said, "it is what is going to be done with the information." Whether you give your picture or fingerprint, she said, either way, it is

that connection that is her personal fear. She also wants something that they can reference to when it comes to legislation that says what the protections there would be for the people who participate in the program. She thinks that is very important. It will be good to be able to tell them, she said, "you as an undocumented victim will not be turned in. It is going to go into the system but we are not going to use that information because you are protected by the victim's rights." She wants something she can share with the community, stating yes, the Federal government at some point can come and do whatever, but at least from the standpoint of the people here in the State, these are your protections. She asked if that made sense.

Senator Townsend said it does make sense. He thinks the drafting of the Trust Act makes sense.

Mr. Torrijos said that is exactly right. Let the people decide what they want. He said that we will have to educate them and be very forthright. It is important to establish the relationship to be able to work with the community. As leaders in the communities, the Task Force members do not want to make promises they cannot keep. We can tell them, he said, "this is the best that can be put on the table," and let them decide if they want to go forward with the Driving Privilege Card. The bottom line he said, is that we want a lot of participation. He said that if Senator Townsend does not think we can get the bill passed without the fingerprinting, he would rather see something go forward with the Trust Act and a lot of education in the community.

Senator Townsend understood. He said it has been a wonderful journey. He thanked everyone and mentioned that he was glad that he did not draft something prior to the meeting because as it worked out, there would have been a misunderstanding that there was a lot of agreement on this issue and clearly there was not. He emphasized how important the discussion has been in helping him figure out a way to draft the Task Force Report. This Task Force tried to think about all kinds of implications about how this system would work. It is not a matter of questions being unanswered but more about how the General Assembly will feel about it. There are questions about what the Trust Act can contain or should or should not contain. It is more a recommendation that one be drafted. The Senator reiterated to the members of the Task Force in his introduction in moving forward we would have

something drafted that we can circulate to everyone and come back together for the final meeting. We can finalize the report and see how it all comes together. He thanked everyone for their patience with the process. He re-announced the last meeting would be October 27th from 1:30-3:30pm at Buena Vista. An email will be sent out.

The Senator thanked Michelle and everyone else.

Darlene Battle said congratulations on Senator Townsend's recent wedding and also for winning the primary election. She also announced Breast Cancer awareness month and reminded everyone to wear Pink.

The meeting was adjourned at 4:21p.m.

## Minutes of the Undocumented Motorist Safety & Insurance Task Force Meeting of Monday, December 1, 2014

Buena Vista State Conference Center, 2:00 p.m.-4:00 p.m.

### Meeting Attendance – Task Force Members:

#### Present:

Senator Bryan Townsend  
Representative Helene Keeley  
Deborah Gottschalk, Esq.  
Javier Torrijos  
Major Melissa Zebley  
Jose Somalo  
Darlene Battle  
Sean Lugg  
Raymond Holcomb

Senator Brian Pettyjohn  
Representative Joseph Miro  
Matthew Heckles  
Rosario Calvachi-Mateyko  
Ana Velasquez  
Bryan Cochran  
Jennifer Cohan  
Drew Fennell

#### Absent:

Senator Robert Marshall  
Chief William Topping  
Pastor Jeremias Rojas  
Keyla Rivero-Rodriguez

Representative Andria Bennett  
Karen Weldin Stewart  
Claudia Peña Porretti  
Judy Diogo

#### Staff:

Michelle Zdeb  
Mariclaire Luciano (representing Senator Marshall)

Shelley Earley

#### Attendees:

Rhonda West, DOI  
Kami Beers, DMV  
Nancy Lemus, member of the public  
Damian DeStefano (representing Representative Bennett)

Scott Vien, DMV  
Virginia Esteban, Hoy En Delaware  
Andres Ramirez, DACA

The Task Force meeting was brought to order at 2:15p.m.

## INTRODUCTIONS

Senator Bryan Townsend, co-chair, thanked members of the Task Force and the public for attending the meeting. He then introduced Senator Brian Pettyjohn, Representative Joseph Miro, Mariclaire Luciano (Legislative Assistant for Senator Robert Marshall), and Damian DeStefano (Legislative Aide for Representative Andria Bennett).

## CONSIDERATION OF TASK FORCE MEETING MINUTES

Senator Townsend asked the Task Force members to look at the Agenda to consider the Meeting Minutes dated October 1, 2014. The Senator stated that the proposed Minutes had been previously circulated and were also in front of them now. He then asked if any Task Force members would like to propose changes. Seeing none, the Senator asked for a motion to approve the Meeting Minutes.

Javier Torrijos, representing the Delaware Hispanic Commission, motioned to approve the Meeting Minutes.

Bryan Cochran, representing the private insurance industry, seconded the motion.

The Meeting Minutes from October 1, 2014, were approved by a unanimous vote.

## CONSIDERATION OF DRAFT REPORT

Senator Townsend said that he would be happy to open the floor up to anyone who would like to share their thoughts. He also hoped that the Task Force would discuss the impact of President Obama's Executive Order on their work as a Task Force and the contents and dynamics of the Draft Report and whatever legislation would be recommended.

Mr. Cochran thanked everyone for the Task Force process. He said that he thought it was a very fair process that allowed everyone to have input. He further thanked Senator Townsend for asking him to serve. He stated that he had received the Senator's email and reviewed the proposed legislation and recommendations and findings. Mr. Cochran stated that there are over 300-400 insurance companies in Delaware and he had only

been able to get input from a few of them. Therefore, he stated that as of today he could not vote on the Task Force's recommendations. He said he would attest to the findings and that those findings do speak to what the committee has uncovered. Mr. Cochran also said he hopes that Senator Townsend will allow the insurance industry in the next week or so to continue to give him some input on legislation if that is the case.

Senator Townsend responded that he thought Mr. Cochran would not be the only person in the room who feels that they could not offer a formal vote today. In fact, the Senator said he was not sure that the Task Force would come to a formal vote. He said that the Task Force must face this reality, particularly given the Executive Order and whether that will change anyone's views of what the Task Force had discussed previously. He thanked Mr. Cochran for clarifying his point right from the beginning. Senator Townsend stated that in reviewing all the Meeting Minutes from previous meetings and putting together the Draft Report, he noted that the Task Force had spent a significant amount of time on insurance issues. He further stated this goes to the sincerity of what the Task Force is trying to address—Public Safety, which includes people having automobile insurance on the roadways. The Task Force's actual recommendations relating to insurance are pretty limited. The Senator then asked for any other comments.

Mr. Torrijos said in the past meeting the term "Secure Communities" had come up, and the issue of whether or not Delaware participates in the federal Secure Communities program. He asked for clarification.

Senator Townsend noted he had looked into it and that his understanding was that Delaware does participate in Secure Communities, but that Delaware's participation does not ultimately control what happens with fingerprints. Therefore, he said, he cannot speak specifically to that issue. The Senator said these kinds of issues might guide the specificity or conclusions by the end of the day if there are still outstanding questions that will determine various avenues the Task Force can take.

Senator Townsend further addressed Mr. Torrijos' point specifically. When he looked into Secure Communities, it seemed to him that Delaware participates, but he is unclear on how well it is enforced.

He stated the discussion at the last meeting seemed to be driven largely from voices in Sussex County and that a lot of the concerns expressed came from stories people were hearing from across the border in Maryland. Those stories did not seem to be specific, concrete information about what is happening in Delaware. Therefore, the Senator said, he does not have a definitive answer and is not sure the Task Force can get one. However, he would be happy to push for a definitive answer from outside of the Task Force to inform the General Assembly moving forward.

Ana Velasquez, representing the Latin American Community Center (LACC), stated that she was trying to verify whether Secure Communities is affected by the Executive Order and that the government is trying to get rid of it.

Senator Townsend agreed that it sounded like it is part of the Executive Order to suspend the program.

Mr. Torrijos thought it was not so much what Secure Communities does, but the perception the community has and how law enforcement is using that information and what the penalty can mean.

Senator Townsend encouraged other Task Force members to also raise their hand to share their thoughts. The Senator went on to say that his recollection from the last meeting in terms of perception applied not just to Secure Communities but to so much of what the Task Force is trying to address, the issues of fingerprinting specifically. However, Secure Communities was a very specific program that has played out differently in different locations, as opposed to the more theoretical concerns regarding fingerprinting and what the difference is between giving your photograph at the DMV versus giving your fingerprints, and how that would impact someone's life. The Senator discussed the ramifications if Secure Communities were to be waived or unraveled by the President's Executive Order, and also what impact there might be when a different president of the United States is elected in 2016, taking office in January, 2017. Therefore, the Senator said, he did not think the Task Force should spin off into a different theoretical. He asked if anyone on the Task Force was an expert on the President's Executive Order. No one responded. The Senator said that he did receive some feedback from a Task Force member who wondered if the Draft Legislation should be structured the way it was

submitted to Task Force members for consideration. He asked if Jennifer Cohan, Director of the Delaware Division of Motor Vehicles (DMV), had a response.

Director Cohan said that the reason DMV drafted the legislation the way they did is so that they do not have to go back to every other section in Title 21 of the Delaware Code and add "driving privilege card" into those sections. Such a piece of legislation would be extremely long.

Deborah Gottschalk of the Department of Health and Social Services (DHSS), said her only concern was the way the draft statute was organized. The draft legislation said that everyone who applies has to provide proof of legal status in the United States. She thinks the paragraph needs to be restructured so that it is clear that if someone is applying for this card, they would not have to present that proof and that there are different items they could present.

Senator Townsend asked for clarification as to what line Ms. Gottschalk had concerns about.

Ms. Gottschalk responded that it was line 13, so that the driving privilege card does not fall under the requirement of the driver's License.

Senator Townsend said that the the bill is structured in such a way that it falls under the requirement of the driver's License except for legal presence. He noted that "except for legal presence" is in line 15 but the Senator said he realizes that Ms. Gottschalk was suggesting to add "legal presence" in line 13 in order to differentiate it below. The Senator said that he was going to wait until a later date in regards to the specificity of the way it is written, although he agreed that it is a very important point. He also noted that it is helpful to know from the point of view of the DMV that if it was differentiated more broadly it would require revisions to all sorts of different sections of the Code.

Ms. Gottschalk agreed that Senator Townsend's point made perfect sense. She gave an example of when a family comes in and applies for Medicaid for just their children. Medicaid requires the proof of legal status in the United States. Her point was that if the bill says everyone who is applying needs proof, it could be a barrier. It should be made clear that there is a way to apply without asking for citizenship.

Senator Townsend asked if there were any additional comments. He said that he is aware that the Task Force has the issue of fingerprinting to discuss and what ways the President's Executive Order may change the requirements of the privilege card application or the community-based education campaigns or any other dynamic that the Task Force has been discussing.

Jose Somalo, representing the Mid-Atlantic Hispanic Chamber of Commerce, asked if the Task Force was requiring just Delaware tax returns or also Federal tax returns.

Director Cohan responded that it would be just Delaware tax returns. She noted other states are doing various things.

Senator Townsend said that he thinks that the idea of Delaware tax returns only gets to the issue of residency, which brings up the very fair point of what is said to someone who is moving to Delaware who has a firm job offer and needs to start Driving immediately for that job offer. Under the proposed statute, he said, this person would have to wait two years to be able to apply for this card. The Senator said he is very open to being part of a conversation at the General Assembly level to see if there is some other way to avoid that problem. The Senator also noted the problem the DMV would have in verifying employment offers and he wondered how that would fit into this system. He asked if Director Cohan had any thoughts about this from the DMV's perspective.

Director Cohan said that was the first she had heard of that and could not respond at this time.

Senator Townsend commented that the issue of who is not eligible under the draft legislation was very briefly brought up at one of the previous meetings but not at any length at all.

Representative Miro said that he thinks there needs to be an alternative, such as a letter or other type of document, that would indicate that the individual is going to reside in Delaware and has a need to be able to drive.

Senator Townsend said the Task Force has been trying to strike a balance between the Driving card becoming an avenue for lawful Driving, while not

somehow encouraging an influx of new residents to Delaware in mass numbers, and bearing in mind the issue of possible fraud. He said that other states have seen applications for these Driving cards spike, and many of the applications have seemed to be fraudulent. The Senator said that one question is should there be some sort of employment letter and, if so, would it only be available for some employers. It shows how the Task Force product is not going to be perfect and it is something to think about, moving forward in the General Assembly.

Senator Townsend announced that Representative Helene Keeley, co-chair, just joined the meeting. Representative Helene Keeley apologized for arriving late due to heavy traffic.

Mr. Torrijos asked if an individual lived in the state of Maryland, would there be reciprocity if that person moved to Delaware and was able to provide documentation. Would that person be eligible to obtain a driving privilege card in Delaware. He further asked for Senator Townsend's thoughts. Senator Townsend replied it was an interesting idea.

Director Cohan replied that the DMV could enter into a separate agreement with Maryland. She said that the DMV would consider Maryland because their requirements are the same. She said that the DMV would be leery of entering into such an agreement with other states because not all have the same level of requirements.

Senator Townsend said the idea of reciprocity with Maryland is based on the idea that their system is similar to Delaware. Consider a state that does not have a driving privilege card. If we were to accept tax returns from that state and an individual is moving here, that would be a very different situation than someone who has just arrived with no record whatsoever of being in the United States previously. If we know the tax return requirement is in part trying to establish a balance between offering this avenue and not doing so in a way that might encourage an influx of new immigrants, is it best trying to structure it so that if you have already resided somewhere else for two years and have been working for two years and have tax returns to prove it, that we would accept you into the system here in Delaware. The Senator said he thought it was an interesting way to try and approach that. He noted

that it is obviously a very sensitive topic. The Senator asked what the Task Force members' thoughts are on the fingerprinting issue. He asked if there has been any evolution or change in people's thinking or communities' thinking in the past two months.

Mr. Torrijos replied that his preference would be for the bill to be passed without the fingerprinting requirement. He questioned if the Task Force could say that facial recognition offers just about the same accuracy as fingerprinting. He said that he struggles with needing to add fingerprinting. The idea was to encourage people to sign up for the driving privilege card so we can provide safe roads for all Delaware citizens. That is the goal. Mr. Torrijos thinks fingerprinting would be an obstacle. He noted that he understands the concerns of the State Police, but thinks facial recognition gives them what they need, even if it is not 100%. He wondered if the DMV could comment since they deal with this day in and day out.

Senator Townsend said he is happy to ask the DMV to comment on their position but noted that DMV could not speak for law enforcement's position.

Director Cohan stated Mr. Torrijos is correct. The biometric that DMV uses for facial recognition is very good. She said that DMV takes the position that fingerprinting serves no purpose for them. The DMV has spoken to the vendor that supplies the driver's license system and they have learned that trying to implement fingerprinting into the front line process will be problematic, if not nearly impossible. And, if it is implemented, it would be very expensive. Director Cohan said, speaking specifically for the DMV, fingerprinting is not going to do anything for DMV that they do not already have in place now. In fact, its high cost would price them out of feasibility.

Senator Townsend said that in order to focus on the real key issues in terms of fingerprinting, he would assume that the process would be similar to the process already in place for applicants to the bar or child care. This process involves going to the State Bureau of Identification, where you walk in and get your fingerprints put on record and you get a form that says your fingerprints have been taken. To the extent that the cost to DMV would be prohibitive, the Senator assumed SBI would take care of the process. With that said, we would be talking about undocumented citizens

walking into a facility they might not want to go into.

Drew Fennell, representing the Governor's office, asked what other states do.

Senator Townsend said that some other states require fingerprinting and some do not. He asked Director Cohan how the state of Utah went about it.

Director Cohan responded that Utah has a temporary one-year driving privilege card. They put forth a bill that did not have extra requirements. They did not require residency, resulting in widespread fraud. Utah went back and amended the law to add a requirement that applicants be fingerprinted.

Senator Townsend asked how they obtained the fingerprints.

Director Cohan answered that outside agencies take the fingerprints. She is not aware of any other states that require fingerprints.

Ms. Fennell asked for clarification that none of the other states do. Mr. Somalo also asked if Utah is the only state doing this.

Director Cohan said that, yes, Utah is the only state requiring fingerprints and that Utah had to go back and amend their earlier law because because they had had initially experienced so much fraud with the driving privilege card because their original requirements were not as strict as what the Delaware Task Force is recommending. Utah had to find a way to match the driving privilege card with the individuals.

Mr. Somalo stated that he does not see the fingerprinting as an obstacle. He is not representing anyone specific, but he has been working with the community for many years. For people who want to do the right thing and prove that they are who they say they are, fingerprinting is a positive thing. If it is cost prohibitive to have it at the DMV, there are other considerations. He emphasized that he does not see fingerprinting as a bad thing.

Major Melissa Zebley, representing the Delaware State Police, added that from the State Police's perspective, fingerprinting would remain with SBI as it always has. The State Police would not be looking

to shift that burden to DMV. The State Police relies on DMV for facial recognition. She said that her thought was that, given that SBI also does fingerprinting for other reasons, that responsibility would remain with them.

Ms. Velasquez said that, with regard to the President's Executive Order, the candidates that can apply for legal status are the parents of children who are U.S. citizens or children who have permanent resident status, and these individuals would also have to go through a biometric or fingerprinting process in order to be eligible for the deferred action. She thinks the Task Force should put that into context with what is being discussed at this meeting.

Senator Townsend stated that when Ms. Velasquez said "biometric or fingerprinting" the word "or" is key and this is what the Task Force is struggling with. Biometrics are one thing and fingerprinting is technically a subset or an example of one type of biometrics. Between biometric or fingerprinting, he said, it is pretty clear which one is a source of disagreement—fingerprinting.

Senator Townsend asked the Task Force how they think the broader community would react to a requirement that applicants be fingerprinted.

Mr. Somalo said that the concern he has heard from several people is that not having fingerprinting may open the door for people coming from other states. The fraud possibilities are real. He noted that it happened in Utah, even though the standards were not as strict as what this Task Force is looking at right now. He repeated that he thinks it opens the door for people to come from other states and apply for the driving privilege card.

Director Cohan said that the purpose of the two-year tax requirement is to avoid something like that.

Mr. Somalo said that in Maryland the DMV is in charge of checking those tax returns and he asked how it will be done in Delaware. Who will be in charge of checking them and making sure that those returns are real.

Director Cohan said that the DMV would have to work with the Delaware Division of Revenue. She commented that they do have a mechanism to do that.

Mr. Torrijos realizes that fingerprinting is the most ideal situation, but asked the members to go back to thinking about what the objective of the Task Force is. He said if a fingerprinting requirement would be a barrier, can the Task Force set aside that requirement, especially if there is a lot of confidence in facial recognition. Mr. Torrijos said that he wants to encourage people to register for the driving privilege card, and if the Task Force wants the program to succeed, then he suggests doing away with the fingerprinting requirement as long as other biometrics are in place and will work to keep Delawareans safe.

Senator Pettyjohn asked if the availability of an agency to have access to facial recognition is similar to the process of fingerprinting when someone is pulled over. He gave an example of when someone is pulled over by the Georgetown Police Department; the police can pull the fingerprints fairly quickly. Can they do the same for facial recognition through SBI.

Major Zebley answered the State Police relies on DMV for facial recognition.

Senator Townsend stated that at its last meeting the Task Force spent a lot of time talking about this issue. Chief Topping had talked about the new tools or technology that certain police departments were preparing to acquire. This technology would allow the police to take fingerprints at roadside and verify. That is not possible with facial recognition interfacing with the DMV. Senator Townsend gave the example that Chief Topping had given regarding a situation at 3:00 a.m. on a dark, windy, rainy night and not being able to rely on facial recognition. However, there may be better and newer technology that can do a better job. Senator Townsend addressed Mr. Torrijos, saying that he thinks that not every member of this Task Force would agree on the exact charge of the Task Force. He noted this is something members will decide by the end of this meeting. The Senator went on to say, in terms of what Chief Topping previously stated, the use of fingerprints on scene and having the ability to verify someone's identity quickly is not possible with facial recognition; the two methods do not provide the same speed of verification. He asked DMV to respond as to whether officers could hook up to a facial recognition database quickly, using something like a smartphone photo of a person taken in a roadside stop.

Director Cohan said that DMV has a function allowing law enforcement to access the photo database.

Major Zebley said the State Police have laptops in the vehicles that allow them to access images roadside. She said she could not speak for every agency in the state, but her understanding is that most do.

Senator Townsend clarified by saying that the police would look at someone roadside, go back to their car to look at the laptop and make a visual comparison, as opposed to technology that would allow for biometric information to be filtered through whatever system would compare what they see roadside versus a picture that person would have had taken at the DMV. He asked Major Zebley to verify whether that kind of technology exists right now.

Major Zebley responded no, not to the level that the Senator described. They only would see the image that was taken at the DMV.

Senator Townsend said it goes to Mr. Torrijos' point as to what is the benefit or point of fingerprinting. It also goes back to earlier, and the DMV's perspective that facial recognition is sufficient for them to make sure that a person only walks in the DMV once and gets one card. That is different from what the police would like to have in the system for a variety of reasons.

Director Cohan added that police have access to all of the photos ever taken so they can see a succession of images.

Ms. Velasquez said that she remembered Chief Topping saying that only very few police departments would have access to that technology for fingerprinting. She noted this means that having fingerprints on file was not going to have a real impact.

Senator Townsend stated the database is not just out there for people to access. Access to the fingerprint database at SBI would be granted only for specific reasons. The Senator said that also goes back to his own confusion about the real-life impact that giving fingerprints would have for people, as opposed to walking into the DMV and giving a photo. He separates that from the psychological aspect. The Senator again stated that Chief Topping made the point that the fingerprint database would not be open for people to

access inappropriately.

Ms. Velasquez said access concerns relate not only to the database but also to whatever technology that police would have on the side of the road.

Major Zebley stated that part of the discussion about fingerprints was not just about the folks trying to get a driving privilege card but as a way of preventing fraud on the front end. Mitigating fraud on the front end is a tangible concern. The hope is that the police do not fingerprint roadside but rather that they can have more confidence that the card stands for itself.

Senator Townsend referred to Raymond Holcomb, representing the Department of Homeland Security, that it took the Task Force a while at the last meeting to get to the point where it was clear that the Major was saying if there is a roadside stop, producing the driving privilege card would be the same as producing a driver's license. Unless the officer has reason to conclude from a visual comparison between a photograph on the card and the appearance of the person in the vehicle that the person in the car is not the person on the card, the police will take it as a lawfully legitimate card and not ask for fingerprints.

The Senator further noted the Task Force had much discussion at its last meeting as to whether or not the fingerprinting would still be part of the process. It took the Task Force a while to get to the fact that in theory it would not. He then stated with that being said, requiring fingerprints at the time of the application would be an initial form of fraud mitigation. He highlighted the fact that the DMV said that they feel fully confident that their facial recognition software achieves that end. The Senator understands law enforcement's perspective in terms of the initial information and why it would be helpful. However, he does want to emphasize the fact that there are some competing statements about the adequacy of the facial recognition software.

Ray Holcomb responded, stating that he understands that fingerprinting is not well received in the undocumented community and he can appreciate what the concern is. If, after two years, as was the case in Utah, an adequate system was not being used to confirm that the person is actually who they say they are, and we find out that fraud is rampant, then he thinks the whole program could collapse on itself. He said there are two

perceptions here. First, it needs to be a good system that people trust and have confidence in. He also understands that it needs to be a system that allows undocumented folks to come forward and feel confident that they are not going to be targeted by immigration officials. Mr. Holcomb noted that it is important that it is a reliable system and that people have confidence in the system.

Representative Miro asked for clarification as to, when the individual is stopped on the road, if the fingerprint is on file, would every office from the State Police be equipped to take the fingerprint from that individual right there or would they have to take that individual back to the station.

Senator Townsend replied that in theory if the driver has a driving privilege card, there would be no taking of any additional information. The police would look at the card just as they look at your license and know that you are driving lawfully.

Representative Miro asked what if the license would not have fingerprints on it. Senator Townsend asked if he meant with fingerprints or without fingerprints as part of the application.

Representative Miro said in the situation where there has been a fingerprint taken. How can the officer on the road verify.

Major Zebley said the card verifies they are who they say they are.

Representative Miro asked whether she meant the card without taking the fingerprint at the site or the station, and that in order to have issued the card the fingerprint had been taken and was presented somewhere. Major Zebley said that is correct.

Senator Townsend asked Major Zebley to correct him if his following statement is incorrect: the card would verify who they say they are even if fingerprints are not part of the process. If we, as the Task Force or General Assembly, were to pass a bill that does not require fingerprints, in theory law enforcement would still not take fingerprints. The police would look at the card as being lawfully authorized, and the driver as lawfully driving. While the police may individually or officially view it as not being as strong a system as it could be with a fingerprint requirement, they would not

be saying, "thank you for letting me see your driving privilege card, but now let me take your fingerprints."

Representative Miro said that where he is going with all of this is that someone may say that we are discriminating because we do not take the fingerprint from anybody else.

Senator Townsend said for licenses, he did not think so.

Representative Miro asked if we institute the process of the fingerprints and we do not fingerprint anybody else, are we discriminating.

Senator Townsend said, "I am going to have to answer that question 'yes.'"

Mr. Torrijos said when he was on the radio that was something that he got hammered over. He tried to defend it.

Representative Miro said that is why he posed the question. The fact of the matter is we do not fingerprint for anything else.

Senator Townsend clarified by saying "anyone else for driver's licenses." The Senator said he was reminded that he had to give his fingerprints to become a member of the Delaware Bar. Another example would be anyone involved with child care, and there are probably other examples where you have to give your fingerprints for various kinds of privileges or opportunities.

Representative Miro said but for driving, which is what we are focusing on here; no one else is required to be fingerprinted.

Senator Townsend agreed.

Senator Brian Pettyjohn said that a birth certificate is required for a regular driver's license, which would not be required here.

Representative Miro noted that we are going to require other documents.

Senator Townsend reiterated that DMV has stated they cannot verify documents from the country of origin. They are not in the business of verifying documents from outside of the United States.

Representative Miro responded that on the other hand we are not requiring anyone else to bring tax returns. There are other documents that are being asked to be presented in order to confirm or verify the identity of the individual. Yes, you do not have the birth certificate, but you are asking for two years of tax returns.

Senator Townsend stated he is fascinated by the accuracy of facial recognition software and technology and asked whether or not that would be sufficient for many of the stated purposes that the Task Force is trying to get at here. He further noted, as seen from other examples from other states, if there are not certain kinds of systems and checks in place, there will be a great many applications for driving privilege cards. However, he said, the cards would bear warnings that it is not a formal means of identification. The Senator said that Representative Miro pointed out the issues that the Task Force has been struggling with.

Mr. Somalo said to obtain a driver's license a person has to submit a birth certificate. Fingerprinting for a driving privilege card is different but it depends how people look at it.

Director Cohan said the DMV is very confident in the facial recognition software. One of the scenarios that has occurred, which is why they ask for two years' tax returns, is that if someone comes into Delaware and they have all the information, DMV cannot use facial recognition to prove they are not someone else in another state. She said that could be an initial fraud possibility. The only thing DMV could do is say that you have not already applied for a card.

Mr. Torrijos asked if that is what we accept.

Director Cohan said that someone coming to the Delaware DMV from another state must go through the entire process to get a regular driver's license. They could not say they were not another person in another state. The fingerprinting, if they had ever been in the system, would catch that.

Mr. Torrijos said that the DMV at least would be able to tell that person only came through once. He asked if we know how Maryland is doing with their driving privilege card program.

Director Cohan responded they are not getting as many applications as they thought they were going to get. However, it has been steady. There was a high failure rate among those taking driving tests, so they are now focusing on different ways to educate people in preparation for the written test. She explained that in Delaware, the DMV does not allow anyone to go out on the road until they pass the written test.

Senator Townsend opened the floor for public comment.

Nancy Lemus, a member of the public, said that it takes over six weeks to get copies of state tax returns and over six months to get copies of federal returns. She asked how that process would work if applicants were required to be fingerprinted. Would it still take the initial six to eight weeks. For someone who has to get all of these things together, how long will that take. She had concerns regarding abuse of the Latino community, as far as some people having something that someone else does not have. An example is someone borrowing someone's car and then being told they have many red light tickets. Often these people become victims. How long will it really take to get a driving privilege card.

Senator Townsend said to the point of SBI, he said he does not recall how long it took to get his fingerprint results. He remembers getting a form that said he had provided them.

Senator Pettyjohn said he did not think the Task Force is talking about getting a background check done. That takes more time. This is just about submitting your fingerprints. You get the form from SBI saying that the fingerprints were done.

Senator Townsend asked Nancy Lemus to clarify if she had been referring to a background check in her above comments.

Nancy Lemus said yes.

Senator Townsend explained this would be just fingerprints.

Nancy Lemus said that often when people in her community hear of a fingerprint requirement, they think it is the FBI and that a background check would be required.

Senator Townsend said that apparently President Obama's Executive Order will also trigger a background check. He said that he has heard a lot of praise for the Executive Order from the Hispanic community. If the Executive Order has been well received and is viewed as an important step forward and welcomed with open arms, and yet it involves criminal background checks, let us put that into context with what the Task Force is talking about here.

Senator Pettyjohn said the Task Force may be putting the cart before the horse. Usually when you go into the SBI to get your fingerprints done, you have to produce some type of identification. Yet here, the applicants will not yet have any type of photo identification. The senator said that it may be something that will have to be dealt with legislatively.

Representative Miro said that for the last seven or eight months all we have heard about is that the Latino community does not have the legal papers. He said that we just finished an election and he spent a lot of time walking in his district. There were a significant number of undocumented people in his district who were not Latinos. There were many varied groups represented that would benefit from the legislation that are not Latino. He said that he believes that in New Castle County the numbers of non-Latino undocumented residents will be very substantial.

Senator Townsend reminded the Representative that Darlene Battle has previously spoken to that issue.

Representative Keeley noted the Task Force is at a fork in the road. More importantly, a plan needs to be in place after a decision is made. The legislation will allow it to happen, but it is very important to consider that the plan that has to be executed after the legislation. Non-profit agencies, the DMV, and the Task Force should be part of the larger plan. Proper education needs to be provided so that people can pass the written test, and proper communication provided so that people know that if fingerprinting is part of the process it does not include a background check. If a strong plan is in place, the decisions will be much easier to make.

Senator Townsend asked Task Force members who do not want fingerprints to be part of the process if the type of plan that Representative Keeley described would

help overcome some of the roadblocks.

Ms. Gottschalk asked if portable fingerprinting machines in other locations might be something to consider, since many people are intimidated about walking into a police station. If people could walk into a more trusted environment they might be more willing to do so.

Major Zebley said the process currently is an automated machine, and it would not be easy to make the process portable.

Representative Keeley commented that her iPhone 6 has the technology to use her thumbprint to identify her, so there should be technology or a device that could accomplish this task.

Major Zebley explained that the intake machine has to populate the fingerprints into a secure system. There are special machines that must be used.

Representative Keeley asked what the cost would be for a machine that Major Zebley described.

Major Zebley said the cost of the machine is not the main issue but rather having the secure line.

Representative Keeley asked if it would be possible to find out what the cost of a mobile unit that could go to a state service center, for example, would be.

Senator Townsend said he was not sure that those location sites would be willing to host an intake event, but also wondered if the cost would be possible.

Major Zebley mentioned that specifically trained people provide the service.

Senator Townsend commented that it is a concrete example of the point that Representative Keeley made in the sense of what is the operational plan. Developing such a plan was discussed at the early meetings of the Task Force but never really addressed because of the other dynamics that were never sorted out or agreed upon. The Senator said he did not think the Task Force was at a point today to make a decision about this, but it is an example of steps that need to be considered.

Representative Keeley pointed out that one of the members of the Task Force is also a member of the Joint Finance Committee (JFC).

Senator Townsend welcomed Task Force member Rosario Calvachi-Mateyko who just arrived after dealing with a flat tire. Mrs. Calvachi-Mateyko, representing the Delaware Hispanic Commission, thanked the Senator.

Director Cohan said that if a fingerprint requirement is included, the DMV would want to check results with other states, and it would not be an instantaneous process.

Senator Townsend said that emphasizes the usefulness of the fingerprints on the front end but wondered how long the process Director Cohan described would take.

Ms. Velasquez responded that six to eight weeks is the normal time period.

Representative Keeley asked Mr. Cochran if a person gets the fingerprints and there is no alias or criminal record, does that do anything for the insurance side of things.

Mr. Cochran said no, not for his company. The person would need a driver's license or some privilege card before his company will insure anyone.

Representative Miro asked if there is an alias or something similar, what can that person do.

Senator Townsend asked if Representative Miro meant if that person's fingerprint hit on something.

Representative Miro gave an example of several different people with the same name showing up in various other states. What would that mean.

Senator Townsend said the issue would be if the fingerprint hit for a match for something that law enforcement somewhere is looking for. The Senator wondered what would happen procedurally at SBI. He also assumed that the applicant would not get whatever documentation would be set up for DMV to take the next steps, such as a written test, road test, and eye test. The Senator asked what would happen from SBI's perspective if they hit on a match for something.

Mr. Holcomb said the fact there may be several other people with the same name would not be problematic, as long as the person's date-of-birth did not match. The problem would be if there was a serious criminal record. In that case, authorities would have to do something.

Representative Miro asked how a person would prove who they are, versus another person with the same name.

Senator Pettyjohn said fingerprints.

Senator Townsend said a fingerprint match hitting on a serious crime is the more important thing to consider. Another conversation would be what level of crime has to be achieved.

The Senator noted he would like the Task Force to discuss the idea of a Trust Act. A Trust Act would determine what happens to some of this information. The Senator said as far as a fingerprint match, the issue would be far more serious if it involves a serious crime rather than just someone with the same name somewhere else.

Representative Miro asked if it would take months or years to resolve.

Mr. Holcomb responded that it might take months, not years, and that there could be a case where the fingerprints prove the person is not the one who committed a crime.

Senator Townsend said that Representative Miro's comments sound as though he thinks the person in question would have to prove who they are to the DMV or SBI to get the card. The card is going to have information printed on it that indicates it is not for identification. The point is that anyone can get the card as long as their fingerprints do not hit on a crime committed somewhere else. The card does not mean that the person is who they say they are, but rather that, if stopped, the person has been authorized to drive on Delaware roadways because the fingerprints are part of process, and that the person passed a written test, road test, and eye test in order to receive the card. The card is not about true identity.

Representative Miro stated that he is not in favor of the fingerprinting. Fingerprinting creates a significant

obstacle for individuals. Many people will not do it if they have to walk into a police station to have it done because they have the perception that other things will happen if they do. Walking into a school causes the same kinds of intimidation for some people as well.

Senator Townsend said he fully agrees but wonders what the difference is between walking into the DMV and getting a photograph to get a card compared to having fingerprints also be part of the application process. In either case, they have to walk into DMV and get their picture taken.

Representative Miro replied that there is a difference.

Senator Townsend agreed that psychologically it is different but in terms of what the actual impact is on their lives, he struggles to understand the difference. He said that he hopes that this Task Force process can translate into something meaningful for a lot of people. He wonders what will happen if other people ask why fingerprints are not part of the process, especially when applicants would already be walking into the DMV. The Senator agreed that many people do not participate in a number of things in our community out of fear and discomfort. However, in this case the Task Force is talking about people who are already willing to walk in and get their picture taken at the DMV but might not be willing to do it if fingerprints are part of it. The Senator said that he struggles with that idea, though he recognizes that the discussion has brought to light many of the logistical issues with other aspects of fingerprinting, such as how long it will take, what the process will involve, and how the results will be verified.

Representative Miro asked how many other regular residents of the state of Delaware would not get their driver's license if they had to get their fingerprints taken as part of the process.

Senator Townsend agreed. He said that, over the weekend, he had discussed these issues at length with his wife, who had immigrated to the U.S. at the age of five, to get her perspective in that regard. The fact is, he said, that the legal status of the population of individuals being discussed is different from another population of individuals. If you are a United States citizen or here lawfully, you do not have to give your fingerprint to get a driver's license. The naturalization process does require fingerprints. If people have not gone through

that process then the Task Force or General Assembly would be saying that those people might have to give their fingerprint. The Senator asked if that would be considered discrimination and if so would it be considered acceptable discrimination or unacceptable discrimination.

Representative Miro said he wondered how many high school graduates who wait to get their licenses until later and then may have committed some crimes and have a record would not try to get their license.

Senator Townsend asked how many crimes would be solved if everyone did have to get fingerprinted. There are public safety benefits from fingerprinting everyone.

Senator Pettyjohn said that committing a misdemeanor does not prohibit anyone from getting a driver's license renewed.

Representative Miro replied that if it was an initial license and someone had their fingerprint on file because of a crime it could cause an issue.

Senator Pettyjohn replied that he did not think that anywhere in the discussion was the Task Force saying that someone would have to have a clean record in order to get a license.

Senator Townsend said he thought it was more the idea of someone in the situation described above having to go through the process and whether they would still be willing to go through the process.

Senator Pettyjohn gave an example of Senator Townsend deciding to go into law and having to submit his fingerprints. Similarly, Senator Pettyjohn said that he, himself, submitted his fingerprints to get his insurance license. In both instances, it was a choice. There are other examples where other people also have willingly submitted their fingerprints in order to achieve the goal that they want.

Representative Miro said the point is that not everyone is required to follow the process described.

Senator Pettyjohn replied that they are required to provide other forms of identification from other people.

Representative Miro agreed.

Senator Pettyjohn added that those other forms of identification are not required from the subset being discussed. Different types of information would be required.

Mr. Torrijos said the risk outweighs the benefits. If the benefit is to get as many people as possible to get the driving privilege card, then the Task Force should take a hard look at requiring the fingerprints. Mr. Torrijos said he was also concerned with the fiscal note attached with the fingerprinting process. The Task Force should consider if requiring it might make it nearly impossible to get a bill passed. He did agree that requiring the fingerprinting would be best but the Task Force might want to consider waiting a year to attach that requirement. If the process is too stringent then there would be little participation.

Senator Townsend asked the team to consider, if fingerprinting was not required, whether people would go through the process and would ultimately obtain insurance. Would the kind of people who are willing to take all the steps also be willing to get fingerprints. Or are there a large number of people who would not do this if fingerprints were required. Yet, without fingerprints, they would go through all the steps, including getting insurance. The Senator gave an example of a young high school student he recently met who had difficulty with participating in after-school activities, due to having to drive his younger siblings around because his parents want to limit the number of times they drive—because they are not here legally.

Ms. Gottschalk said she thinks that the kind of people who present themselves to DMV without a fingerprinting requirement will present themselves to the government office, go on record with where they live, present their tax returns, have their photograph taken, and get car insurance. They are probably not people that the police would be looking for in a fingerprinting check. If they are going to walk in the door, they are probably more responsible people.

Senator Townsend agreed and said that her comments describe his frustration.

Ms. Velasquez said she thinks the issue of fingerprinting can be overcome with education. The timeline of a six- to eight-week application process and the complexity of the process is more concerning to Ms.

Velasquez.

Senator Townsend commented the number of people that would sign up also is a concern. He said that the President's Executive Order will be impacting the process in Delaware.

Representative Keeley is perplexed by Homeland Security and State Police's perspective of facial recognition versus the fingerprint. The technology available is very advanced today. She asked Mr. Holcomb if that was just not secure enough for Homeland Security.

Mr. Holcomb said that there is technology but there are all kinds of privacy issues involved. However he agreed that the technology is available.

Representative Keeley asked if Mr. Holcomb was referring to facial recognition.

Mr. Holcomb responded that the technology is there with fingerprints too.

Representative Keeley asked with the technology involving facial recognition, what is the difference between the facial recognition and the fingerprint.

Major Zebley said that anyone will be who they say they are the day they walk into the DMV. That is the concern of the police. The database of history is not there. Major Zebley said the police feel more secure with having the fingerprints on the front end.

Representative Keeley asked if the information is available from other states of the percentage of people who would not get fingerprinted. Or is information also available regarding the percentage of people who did go and get fingerprinted and then were found to have committed a crime in another state.

Director Cohan said she did not have numbers. In Utah it is not a big issue.

Rhonda West, representing the Insurance Commissioner, referred back to the issues of technology and Chief Topping's previous comments about technology being available with some portable machines.

Senator Townsend wondered if anyone in Delaware might be asked to put their fingerprints on a scanner

and what the privacy implications of that are. Chief Topping talked about having the technology, but have there been privacy discussions associated with that. The Senator said that topic may be discussed in a different context later. The Senator brought up the topic of the Trust Act and asked if it makes any difference or not for what the Task Force has been discussing. The Senator reminded the members that the Trust Act might be a legislative document that does the best to pledge that the information captured in the application process would not be shared with Federal officials or immigration officials outside the context of criminal activity. If fingerprints would hit on a serious crime somewhere else, that would be pursued. People applying for a driving privilege card would take some comfort from the Delaware General Assembly having pledged or instructed state agencies not to share the information with Federal or immigration officials generally. The Senator asked the member of the Task Force if they thought that kind of Trust Act would do anything in the context being discussed today.

Mr. Torrijos said that he thought that when previously discussed the Task Force thought it was a good idea. It would be something that the communities would know that the state is willing to sign on to and ensure that the information would not be generally shared with the federal government. Mr. Torrijos said he thinks that is a step in the right direction, gives some type of credibility that the information given at the DMV will not be shared with others, and is a good compromise. It does not take away the fact that the Federal government can come in at any time and ask for information, and Mr. Torrijos thinks that is part of the problem. He emphasized that the communities will need to know that the Federal government might be able to access information if they want to.

Senator Townsend commented that is a legal point. The federal government can always request information, but whether or not it is immediately handed over is another question. There have been requests in the past that have been argued against and have not been followed up on. The Senator said that he agreed that the Task Force cannot promise it will not happen, but he pointed out that the DMV and State Police are being funded by the legislature and would have some reason to honor whatever Trust Act would be developed. The Senator wanted to know if the other Task Force members thought having a Trust Act would really make

a difference.

Senator Pettyjohn said he was not sure that having a Trust Act would solve any issues, especially when in two years there will be another administration in Washington D.C. and they may file to obtain records from the states. He thinks that many states will resist handing over that information and it will be up to the Federal court system. The Senator said the Task Force could say that we will make every effort to keep the information confidential and private but with the understanding that if a court of competent jurisdiction says the information must be turned over, then it must be done. The Senator said he thinks having the Trust Act will make people feel more comfortable but that there must be the disclaimer that it cannot be guaranteed that the underlying information will not be shared at some point.

Senator Townsend said that Chief Topping had expressed concerns that a Trust Act could be worded in such a way as to figuratively handcuff police and how they do their job. The Senator said that the Trust Act would be worded in a way that would not tell the police how to do their jobs.

Ms. Velasquez said she would be a strong advocate for the Trust Act if fingerprints are part of the process.

Senator Townsend confirmed that the Trust Act is important.

Ms. Fennell said it would prevent some future agencies from entering into voluntary agreements to disclose that information, which has been done in the past. A court order is a robust tool.

Senator Pettyjohn asked if the Trust Act would be an addition to this bill or a separate thing.

Senator Townsend stated that he thought it would have to be a separate bill, but a companion one that would be run back-to-back. He mentioned perhaps the legislature should pass the Trust Act first.

Mr. Somalo said he would be in favor of the Trust Act being attached or put into the bill.

Darlene Battle, representing the Delaware Alliance for Community Advancement (DACA), said that she

was hoping the bill and Trust Act would be together because in Maryland they tried to submit the Trust Act after the bill passed, and then it did not pass. Washington State suggests that it be put together.

Senator Townsend said that in Delaware there are certain rules about what can be included in one bill or not. Multiple things cannot all be in one bill. The Senator said that it could be tried, but it may be difficult to do.

Ms. Fennell said that if it made reference back to the information collected in that DMV bill, then it would be sufficiently related to pass the constitutional test.

Senator Townsend said he would be happy to support a Trust Act that is not so narrow that it only talks about the information in this system but actually talked about information collected during any interaction with State government. The Senator said that he respected Drew Fennell's suggestion and that they could possibly try including the Trust Act in one bill. It is important to consider how they end up drafting the bill. The Senator said that brings up the point of the Draft Legislation that was submitted yesterday. There will not be a Task Force vote on whether this has to be the final version, and he is very open to suggestions from others. The Senator mentioned that everyone is representing different groups and some have been less vocal than others. He encouraged everyone to be vocal about what a final product or statement should be regarding what the Task Force has concluded.

Ms. Calvachi-Mateyko, said that she preferred to get away from the word "privilege." She said the word "safety" is key and would prefer it to be called a Driving Safety Card.

Senator Townsend said that in reviewing the minutes, he did not consider the name of the card to be as important as other issues, although he understood why Ms. Calvachi-Mateyko does. The language had been chosen by others who had looked at this topic more broadly around the country. The Senator also does view Driving as a privilege. It is a privilege for undocumented people to be accepted into the community more formally and more legally. The card is just one example of that. The Senator appreciates Ms. Calvachi-Mateyko's passion on the issue and said that he has equal passion in trying to solve the problem. As reflected in the minutes, words are important, but it is a topic the Task Force got away from over the course of

deliberations. He asked the DMV how would this end up unfolding.

Director Cohan said that the DMV studied and took a national look at it. The Director would like to call every driver's license a driving privilege card because it is understood that it is a privilege and if a person does something wrong they need remediation. Privilege is cited throughout Title 21. She understands the issue, but wants to be consistent with current law. Calling the card something different would be counterproductive to the DMV. Director Cohan asked for Mr. Vien's input.

Scott Vien, representing the DMV, said going back to the structure of the bill, he thinks doing it in a single bill is the most effective way. He said it is important to marry it thru the balance of the Code. When a person incurs some problem on the road, they lose the privilege to drive. He agreed with Director Cohan's comment that the preference would be to call them all a Privilege Card.

Mr. Cochran said, as an attorney, that "privilege" and "right" are clearly defined terms. The Supreme Court has written on the state's ability to regulate driver's licenses and have defined it as a "privilege." For terms of clarification, "privilege" definitely has a definition.

Senator Townsend said, logistically speaking, it is not as easy as it sounds to name the card. He apologized if the Task Force has not sorted it out or given it enough attention because words matter and are important. Some people on this Task Force suffer more than others from being labeled.

Ms. Calvachi-Mateyko suggested adding the word "safety" somewhere else.

Senator Townsend referred to the title of the Task Force, "Undocumented Motorist Safety & Insurance Task Force." He said he understood Ms. Calvachi-Mateyko's point.

Mr. Torrijos said he wanted to know where all the members of the Task Force stand on the idea of fingerprinting before going any further in discussing how it will be executed and what plan will be developed.

Representative Keeley said she wanted to go back to what she had said about needing a plan and how it will

be rolled out. She also pointed out that the handful of legislators that are represented on the Task Force would need to consider the rest of their caucuses and figure out if the votes would actually be there if fingerprinting were or were not included. She did not think that taking a vote at this meeting would finalize the decision. The legislature voting would make that decision. She said having a plan in place if fingerprinting is included is important.

Senator Townsend asked about easier accessibility of fingerprinting.

Representative Keeley said there is a need for a plan for what happens after the Governor signs a bill. The Task Force should have a plan to move and execute the bill. Bills often do not take effect until six months after the legislation has been signed, so that plans can be made. Often much of that is dumped on the state agencies to come up with a plan. Representative Keeley said she thinks the Task Force should help the state agencies come up with the plan.

Senator Townsend said the Draft Legislation has a place holder for the number of days before it would take effect. Some bills take effect quickly while others do not, in order to provide sufficient time for all the required pieces to be put in place.

The Senator agreed with Representative Keeley's comments regarding needing a plan of action and significant community involvement and education and building confidence in the system. The Senator said the Task Force had hoped to have a very detailed plan in place but that they have not gotten there yet. He said the Task Force is required to submit a report, which can include a statement that says the Task Force acknowledges that a robust plan must be in place and members of the Task Force (including law enforcement) intend to be involved with developing a community education plan. The Senator said they need to determine what the Task Force wants to say about the outcome of the meetings.

Ms. Fennell said there are many unanswered questions, and some of them will be decided upon by people outside of the Task Force. She suggested saying after lengthy discussion there was no consensus, freeing the legislators to exercise their own judgment, but that there be a recommendation of some ongoing work to

implement any legislation and educate members of the relevant communities.

Representative Keeley said that she thinks that could happen. She suggested introducing the bill without the fingerprints. She said that realistically the bill would not be discussed until March but each caucus would have the ability to discuss it. Depending on the votes, an amendment could be added.

Mr. Torrijos said he thinks his community would agree without fingerprints. Without the fingerprinting, the barriers are less.

Senator Townsend asked what is the ultimate outcome of the Task Force. There are a list of findings and a list of recommendations. Mr. Cochran said he agreed with the findings but did not want to cast a vote specifically supporting the recommendations. The Senator said he would be happy to amend or make any changes. He said that the Task Force can add a statement that says that adding the fingerprinting is the pressure point. He said he is open to a vote count or whatever the Task Force is comfortable with.

Mr. Torrijos said he would like to have an open vote.

Senator Townsend said that his guess was that there are many Task Force members who feel that they are not in a position to support anything at this point.

Representative Keeley added that she did not think it was fair to put some people who are representing someone else to vote. She said the best thing to say for this report is that there was not a decision.

Representative Miro said he thought that would make it difficult to present it to the caucuses.

Representative Keeley said the fingerprinting issue could be left out.

Senator Townsend asked if anyone would object to having the Task Force indicate that overall it is recommending that a driving privilege card system be put in place.

Representative Keeley said that she did not think that the Task Force should put some people in a very awkward position of having to vote right now.

Ms. Velasquez said it is difficult to represent an entire community. She said the preference regarding fingerprinting is to not have it; however it is not a deal breaker.

Senator Townsend said if the issue of fingerprinting is going to come up at some point—which the Task Force knows it will—then he would prefer to give people a head's up. He would support having something that does mention it but that the group did not reach agreement because it is a tradeoff between ease of application and getting more people signed up versus the anti-fraud provisions and other benefits. The Senator prefers the report to be very clear up front and what the pressure point is and what they need to think about.

Representative Miro said that the feedback that it could take six to eight weeks might be met with the fact that some people have waited six years already.

Ms. Fennell said she shared the concerns about the practicalities and her suggestion is that, because we do not know how they will work, what they will cost, or what the barriers are that, it would be a problem if put to a vote. However, she thinks that there is much consensus on the need for something along the lines of what is well described in the document. The issues surrounding the fingerprinting cannot be addressed because the Task Force does not have all the information needed to make a decision.

Senator Townsend agreed but said that did not answer whether it should be mentioned whatsoever.

Representative Keeley suggested that a smaller group work on the first paragraph as far as the recommendations to figure out a way to say it in a different manner, and then circulate it electronically so that everyone else can read it. It would be very clear that the topic of fingerprinting was discussed without it saying that it was not voted on.

Senator Townsend said he would be happy for Representative Keeley and himself to take the lead on that suggestion, but he would like to have input from the Task Force if the Task Force could not reach a determination.

Representative Keeley agreed and said that we can work on the language. She said that if fingerprinting is included in the legislation and we know that this

population is apprehensive about going to a State Police station, then we need to find out more about the viability of mobile print machines and having the information be delivered to the proper system.

Senator Townsend said that they will circulate to the entire Task Force that paragraph amended and/or split, depending on how the drafting works out. The Senator asked if anyone on the Task Force had an issue with any other findings or recommendations. Recommendation 2 is that there is a Trust Act. Recommendation 3 is a supportive Education program and Recommendation 4 is that things will change over time and that we should bear that in mind and modify the system as needed.

Representative Keeley suggested including that the Task Force may meet in a smaller group for developing the big communication roll-out plan.

Senator Townsend said that paragraph would be circulated as well. He said that the standard would be 48 hours to respond if anyone has issues and no need to respond if there are no issues.

The Senator said that other than that, we are in a position that, as long as it is framed that there are no objections to the recommendations and findings, everyone is in agreement. He further noted the Minutes of the meeting will also be circulated, with all minutes to be included in the report. The report will include this document, as well as an opening letter from Senator Townsend and Representative Keeley. At the end will be attached all the detailed Minutes. The Senator said that because the Task Force will not be meeting again, they will approve the Minutes via email with the standard being 48 hours to object or provide any kind of comments. The Senator asked if there were any other questions or concerns.

Ms. Calvachi-Mateyko said that she thinks it is important to consider how it is going to be financed and will the money be ready.

Senator Townsend said that at the first meeting it was discussed that there would be upfront costs to the DMV that would hopefully be recouped over time as people sign up for the cards. He mentioned that today other costs were discussed regarding fingerprinting and educational campaigns.

Mr. Torrijos thanked everyone for the hard work and tremendous effort that was put into the process. Senator Townsend also thanked Task Force members for their work.

The meeting was adjourned at 4:18 p.m.