

Testimony of Stephanie Pollack
MassDOT Secretary and CEO
Joint Committee on Transportation
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Good morning. Chairman Straus, Chairman Boncore, and members of the Committee. We are in this room this morning to continue this Committee's investigation of the unconscionable failure at the Registry of Motor Vehicles that contributed to the tragic death of seven innocent people, most veterans who had honorably served our country overseas and come home safe again only to lose their lives at the hands of an irresponsible young man who should not have been in possession of a Commercial Driver's License and should not have been driving a truck on June 21 in Randolph, New Hampshire. To anyone in this room who is family member or friend of those who were killed or injured, I wish to express my deep sorrow and extend my most sincere apologies for the Registry's failure. I know that there are no words that can adequately describe the pain that you are feeling or fill the emptiness in your home, your family and your heart.

This morning I will not repeat the testimony I had planned to provide last week, which I have already submitted to the Committee. But I will re-iterate what I had planned to say then: the Registry of Motor Vehicles missed the opportunity to revoke Volodymyr Zhukovskyy's license to drive before the June 21st accident. The members of this Committee and the public want to know how and deserve to know how this could have happened and who is responsible, but also what the Registry has learned from this tragedy, what we are doing differently already and how we will make sure that the Registry carries out and prioritizes its public safety responsibilities into the future. This Committee's investigation is a critically important part of the process and we are committed to cooperating fully with the Committee. In addition, as you know, we have brought in an independent outside firm, Grant Thornton, to do a forensic review of the Registry's processes, internal controls, and policies with respect to the timely processing of state to state communications and today and in the coming weeks we will share with you and the public what we learn from the Grant Thornton forensic audit.

At the Committee's request, seven people are here to testify this afternoon in addition to myself: former Registrar Erin Deveney, current Acting Registrar Jamey Tesler, three current RMV and MassDOT employees and representatives from FAST Enterprises, the contractor for the ATLAS software system, and from Grant Thornton. Our cooperation with the Committee investigation has included and will continue to include providing documents the Committee has requested, with redactions as necessary in order to protect confidential and/or privileged information. I apologize that we could not get you all of the documents requested in advance of this hearing and want to assure you that we will continue to produce additional responsive documents. The process involves review of over six million pages of documents, over 10,000 of which have been found responsive and already been provided. In addition, we are in the process of reviewing over two million emails for responsive information, 1,400 pages of emails which have already been produced. In total, we estimate approximately 70% of the responsive requested records have been produced.

Although it has been over a month since the accident, we do not yet have a complete picture of all of the factors, decisions and processes that led to the breakdowns that we will be discussing this morning. During this time the RMV has focused on processing the backlog of unprocessed mail notifications, establishing and implementing systems for expeditiously handling incoming notices, launching an effort to review all 5.2 million active drivers' records against the National Driver Registry and establishing a system to generate outgoing notices to other states. You will hear more from Acting Registrar Jamey Tesler about those efforts. But we have also been working on reconstructing what happened at the Registry, when it happened and why through interviews and reviewing thousands of documents and this afternoon we will share what we know.

Because the four status reports that have been released and the testimony that Acting Registrar Tesler and I prepared for the first hearing documented in detail what the Registry has been doing for the past five weeks, most of my testimony will focus on our current understanding of the recent history of how the Registry did – or did not – process Out of State (OOS) notifications from other states about Massachusetts regular or Class D drivers. Before sharing with you what we have discovered so far, I want to begin by placing this information in the broader context of the Registry's responsibilities and recent history.

Background and Context on the Registry of Motor Vehicles

The Massachusetts Registry of Motor Vehicles works hard to balance its responsibilities to keep our roads safe, issue secure credentials and ensure that their security is maintained, and provide customers with excellent service. During the past four years, the Registry has worked hard to fix, reinvent and in some cases invent new business processes to address all of these responsibilities. The Registry has been working to implement a new 21st century software platform, implement Federally-mandated RealID to ensure that the credentials we issue are accurate and secure and fix many business processes that needed to work better to ensure the safety of motorists and the security of credentialing as well as to provide customers with better service.

The Registry has an FY19 budget of just under \$110 million, an amount which has risen steadily from \$90 million in FY16. Currently the Registry has over 775 Full Time Equivalent employees in 30 service centers and at the Quincy headquarters, up from just over 700 in FY16 and FY17. As the data we provided before last week's hearing demonstrates, we have grown headcount both in the service centers and at Quincy headquarters and the headcount in the Driver Control Unit and Merit Rating Board has been stable since FY17.

Massachusetts has 5.2 million active drivers with 300,000 plus suspended at any time. The vast majority of events that trigger suspensions occur in Massachusetts and the Registry processes over a half million such citations against Massachusetts and out of state drivers each year. Registry staff suspend around 25,000 people per month, hold between 75,000 and 100,000 hearings per year on these suspensions, and receive more than 750 pieces of mail each week from other states regarding the actions of Massachusetts drivers in other states.

Of the state's 5.2 million drivers, approximately 110,000 also hold a Commercial Driver's License or CDL. Last week's testimony detailed the workings of the Registry's CDL program and what we have done to correct deficiencies in that program, including the legislation that we developed and Governor Baker filed that could help reduce the likelihood of unqualified, unsafe drivers being licensed to drive commercial vehicles. That testimony also explained that for CDL drivers there is a nationwide computer system, the Commercial Driver's License Information System, or CDLIS, which ensures that each

commercial driver has only one driver's license and one complete driver record. Since March, 2018 Massachusetts has used its new ATLAS software platform to manage communications about CDLs through CDLIS. As I explained in that testimony, we have already corrected the underlying cause of the Registry's failure to act on the Connecticut notice through CDLIS and are undergoing a program review by the Federal Motor Carrier Safety Administration, which oversees the timeliness and quality of state compliance with CDL regulations. We are working hard to ensure that the CDL program operates in compliance with all relevant state and federal laws.

The implementation of the ATLAS system was a significant milestone for the Registry. When I became Secretary in 2015 the Registry was storing the licensure and registration data of millions of Massachusetts residents in a software system created in the time of black screens with green type, written in COBOL – a programming language dating back to the 1960s. Replacement of the 30-year old ALARS technology was also stalled, over-budget and thirteen months behind schedule with millions in taxpayer dollars spent and essentially no code to show for it. We worked with our colleagues in the General Court to enact needed enabling legislation for RealID and to implement this critical secure licensure program on ATLAS, our new post-ALARS software platform. This entailed terminating the prior software contract, surveying the current state of available technology, conducting a re-procurement under which FAST Enterprises was hired and launching the first release of ATLAS, which covered driver licensure and RealID, in March 2018. The second release, covering registration functions, is underway and currently scheduled for completion by the end of the year.

As you are aware and may well hear this afternoon, the first release of ATLAS which handled all matters relating to driver licensure involved a number of struggles, in no small part because Massachusetts simultaneously went live with ATLAS and implementing RealID. With FAST Enterprises, those issues were worked through. The ATLAS system and the staff of FAST has been an invaluable part of our work over the past month to respond to the problem of unprocessed out-of-state notifications. Without ATLAS we would not be currently comparing our 5.2 million driver records to the National Driver Registry. Without ATLAS we would not be able to at long last regularly send other states notifications when Massachusetts takes actions against their drivers. The transition to a modern, up to date, automated and electronically-capable licensing system is long overdue and the answer to many of the Registry's broken business processes. But as I often say, automating a dysfunctional process does

not necessarily fix the process: it is the Registry's job to put the right business processes in place and ATLAS' job to help implement them through automation.

In the documents that we produced you will read not only about the implementation of ATLAS but more broadly about the Registry's efforts to use Agile techniques to redesign business processes. As you may know, Agile is a business process redesign tool which began in the software industry, but has been used successfully in many other types of organizations to improve operations. The Registry re-organized its work into "families" of business processes and worked to redesign processes both to become a more efficient agency and to prepare for ATLAS. The enforcement services group focused on ensuring public safety "by removing dangerous drivers from the roadways through enforcement of statutorily mandated and discretionary license suspensions and revocations.

One of the efforts that grew out of the business process improvement effort attempted to address a longstanding issue at the Registry: how to process the thousands of pieces of paper per month the Registry receives from other states about infractions, serious and not-so-serious, committed by Massachusetts drivers in those. This set of responsibilities has been handled poorly for a long time, as is clear from our discovery of unprocessed Out of State notifications dating at least as far back as 2011 and from the absence of any regular process for sending outgoing notifications to other states. I now know – although I did not until recent weeks – that both the senior leadership of the Registry and the offices required to process Out of State Notifications were aware of the agency's persistent inability to keep up with the flood of mail or to triage and prioritize it to ensure that at least those notices that required suspension actions were acted upon expeditiously. It appears that until recently there was an institutional belief that this was not a serious safety problem because the CDLIS system took care of suspensions affecting commercial drivers and the use of the National Driver Registry and its Problem Driver Pointer System would handle the serious offenses requiring suspension, at least upon renewal or other interaction with the RMV. We now see clearly that neither CDLIS nor the National Driver Registry is a substitute for the work that is the Registry's responsibility: the work of maintaining accurate and up-to-date driver's records for each of Massachusetts' 5.2 million drivers, including information on offenses committed in other states. Nothing less than that can ensure the safety of drivers in Massachusetts and around the country and we are committed to doing whatever it takes to at long last put in place the processes and resources needed to ensure that the Registry both processes incoming

information from other states about serious issues and provides outgoing notices to those states when such information is in Massachusetts' possession.

Timeline of Out of State Notifications 2015-2019

I will now give you a timeline about the Registry's handling of Out of State Notifications for non-commercial drivers that represents our current state of knowledge based on interviews and the review of thousands of documents and email searches. While our investigation is not complete and we have not yet received the preliminary written report from Grant Thornton that is due the week of August 12th, a picture is emerging of larger, systemic issues related to out of state notifications which have been present at the RMV for some time. I am not, however, comfortable speculating as to why certain decisions were made and what the thought process behind them. I am therefore going to stick to the facts that I have learned in these past weeks and that can be proven. Here is what we know as of now.

Prior to the fall of 2016, the responsibility for Out of State notifications was the job of the Driver Control Unit of the Registry. This unit, consisting of some 50 staffers across nine offices, is responsible for license suspensions, revocations, the ignition interlock programs, as well as handling court and driving records. Keith Costantino, who will be testifying here today, became the director of DCU in June of 2015. We know that Out of State notifications had already gone unprocessed before Mr. Costantino took over DCU, as he has told us that in July of 2016 there was at least a three year backlog of out of state citations. This is consistent with the mail we found stored at the Concord archive, which, again, contained notifications dating back to 2011.

Recognizing that this situation had to be addressed, Mr. Costantino developed a plan in the fall of 2016 for moving the responsibility for entering out of state offenses into drivers' histories to the Merit Rating Board, which is the office responsible for entering the near half-a-million citations issued to Massachusetts drivers each year. A methodology for working down the backlog was worked out, with estimates being it would take between three and six months for the backlog to be eliminated. The rationale behind this move seems to lay with the fact that MRB already had the ability to process large amounts of similar documents – in-state citations – and that this move would ensure the information was correctly added to records.

In the fall and winter of 2016 and 2017, DCU and MRB leadership continued to refine the process that would be followed going forward. A large focus of concern appears to be the insurance premium impact of old citations suddenly being applied to driver records, and decisions were made to going back six months back. This was all done in the context of the larger effort to refine business processes as the successor to the ancient ALARS system was being designed. This resulted in significant documentation of the problem, as Mr. Costantino prepared a case for the move to MRB, and created a plan using Agile "sprints," the methodology the RMV was using to resolve issues, to address the backlog.

We know that there were conversations in the fall of 2016 with officials at the Division of Insurance regarding the backlog of out of state citations and how entering old offenses would negatively impact driver histories. We have no evidence that this issue was ever framed as being about anything other than old traffic citations.

At this time, the beginning of October, 2016, Mr. Costantino prepared a draft memo, to be sent from himself, Tom Bowes, and the Registrar, to the Governor's "legal department", as well as the MassDOT legal, regarding the policy decision to begin applying old out of state citations to current driving records. The cover message twice refers to the memo as a "draft" and offers to re-draft it if necessary. This draft memo specifies there is a backlog of "out of state citations," without describing the size of the backlog. The draft does estimate that the backlog would take three to six months to clear.

We have located no record that this draft memo was ever sent beyond the RMV or received by MassDOT or the Governor's Legal Office. Instead, it appears a decision was made at the RMV to proceed with the migration of handling out of state records from DCU to the MRB, and some time in late March or April of 2017 MRB began entering these records on a going-forward basis. It does not appear that the backlog was addressed, as we do have evidence that the old notifications, the 72 boxes found in Concord, were sent to the archives in mid-March. This indicates that at the very least a decision had been made to not do the backlog at that time, but to keep the documents available for retrieval "if and/or when necessary," as Mr. Costantino told Mr. Bowes in an email on March 17th.

We do know that by April of 2017, MRB was entering some out of state notifications. We have recovered a number of emails between RMV officials discussing the process by which MRB would enter

out of state notifications, including emails referring to quality control issues with the entering of data, which does at least suggest that out of state notifications were being entered by MRB.

We believe that MRB continued entering some Out of State notifications, while seemingly accumulating a new backlog. By February of 2018, according to a draft of an email prepared by Mr. Bowes but never sent to the Registrar, that backlog had reached seven or eight months' worth of notifications. Atlas Release 1 went live in March of 2018, and it appears the MRB continued trying to enter out of state notifications for some time, but by the summer of 2018 it is quite apparent that this effort had been abandoned.

We also know that Brie-Anne Dwyer, a long time Registry employee who had moved over the MassDOT's internal audit team in January 2019, began a routine audit of MRB as her first assignment. Her audit was largely focused on the process of clearing motor vehicle hearing payments, but did look at other processes in MRB. In February of this year, Ms. Dwyer identified an "open queue" of work orders in ATLAS representing some 12,829 open tasks. She came to discover that these tasks represented roughly 2,500 out of state notifications that had been scanned into the ATLAS system multiple times, but not adjudicated. This concern was raised to Mr. Bowes and the Registrar in different meetings, and she recommended to Mr. Bowes in April that the out of state notification function be returned to Driver Control. Mr. Bowes responded to the audit by agreeing that DCU was the appropriate venue for this work and stated to her that this change would be made by June 28th of this year.

The audit was one warning sign in recent months. Another was a letter sent to the Registry in later April by a doctor who had patients in New Hampshire indicating his concern that his patients who had received OUI's in New Hampshire had not been having their licenses suspended in Massachusetts, as had been the case in previous years. He questioned if there had been a change in the law. This letter was received by the RMV and there are emails between staff concerned about the implications. As you may be aware, New Hampshire is the one state that did have a system of exchanging electronic records with our RMV, but that system had apparently stopped working at some point in recent years for reasons we are still trying to understand.

Tragically, however, these warning signs were not heeded and, again, I must repeat my deep sorrow regarding the events of June 21st and my most sincere apologies for the Registry's failures. It is

unacceptable that the senior leadership of the Registry failed to address these known problems with processing Out of State notifications or to elevate those problems to my office. Since finding out, however, I can assure this Committee and the public that MassDOT, Acting Registrar Tesler, and his team have worked tirelessly to at long last put in place changes that will ensure that the Registry fully complies with all of its safety-related responsibilities, including the responsibilities to act on information provided by other states and to notify other states about serious driver violations and citations that require action.

We will correct these failures. These past weeks I have personally witnessed the hard work and commitment of men and women who have come in early, stayed late and even worked over weekends to eliminate the backlog of notifications requiring suspension actions and put in place new systems both to process incoming notifications and begin sending outgoing notifications. We continue to develop new protocols, and will hire new personnel as needed, to ensure the public safety mission of the Registry is given the appropriate attention it deserves. While I know that we will have to prove it, I have no doubt that the Registry – for all of its shortcomings – is capable of simultaneously and successfully re-inventing itself and getting the job done.

In closing, thank you for this opportunity to share with you our findings to this point. I expect that the Grant Thornton preliminary review will be completed the week of August 12th and will of course share it with you immediately. We welcome the Committee's investigation and look forward to working with you to move forward.

