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HARRY HUGHES
GOVERNOR

STATE OF MARYLAND
EXECUTIVE DEPARTMENT

GOVERNOR'S INFORMATION PRACTICES COMMISSION



ARTHUR S. DREA, JR.
CHAIRMAN

OFFICIAL MINUTES-GOVERNOR'S INFORMATION PRACTICES COMMISSION MEETING - May 26, 1981

The meeting of the Governor's Information Practices Commission on May 26, 1981 was held at the Motor Vehicle Administration in Glen Burnie. Members of the Commission in attendance were: Mr. Arthur S. Drea, Jr., Mr. John Clinton, Mr. Robin Zee, Mr. Donald Tynes, Senator Timothy Hickman, Mr. Wayne Heckrotte, Mr. Albert Gardner and Mr. E. Roy Shawn.

Mr. Drea opened the meeting by thanking Motor Vehicle Administration (MVA) officials for scheduling the meeting and reiterated the Commission's desire to discuss the issues outlined in the report which had been completed by the Commission staff on MVA's record-keeping practices.

Mr. Hanratty referred to the list of questions that he had sent to Mr. Bertak, MVA's liaison with the Commission, and the list of responses from MVA, both of which were attached to the report. Mr. Hanratty referred to the first question, asking what type of personal information is collected. He stated that MVA's response had indicated that the only personal information maintained by the administration was that collected by the Medical Advisory Board. Discussion followed on the need for a definition of "personal information". After the term was defined, Ms. Agnes Stoicos, Associate Administrator, indicated that MVA's response to this question was erroneous. Because MVA records are public information, this data had not been considered to be personal information.

The second issue brought up by Mr. Hanratty was the question concerning the access rights of the person in interest. MVA had responded that the individual has this right. However, Mr. Hanratty added, the manual of the Medical Advisory Board indicates that the person in interest only has a limited right of access. His lawyer is allowed to see "confidential" material but cannot reveal it to his client. MVA officials pointed out that often the information in Medical Advisory Board files may be detrimental to the person in interest. The papers which are confidential have been stamped as such by the doctor himself.

Discussion followed on the legal basis for restricting access. It was pointed out that this was the result of the settlement of a court case. Mr. William Long, Assistant Director, Division of Systems Planning and Implementation, pointed out that the records of the Medical Advisory Board are confidential by statute; however, the statute does not specify issues related to the person in interest.

Mr. Hanratty moved on to a third question directed to MVA: Are individuals made aware of their access rights? Although MVA had responded affirmatively, Mr. Hanratty questioned whether most citizens are aware of this right. Ms. Stoicos explained that MVA was in the process of revising the drivers' handbook and that a statement was to be included in the new handbook indicating the public character of driving records. It was suggested in the discussion that ensued that currently licensed drivers could be informed of their rights through their license renewal packets. Mr. Long added that expungement requirements might also be made known to the public in this fashion.

The subject of disclosure logs was introduced. MVA officials stated that such logs are kept and that an individual can request to see them. Mr. Hanratty noted that although MVA had indicated that the reason for the request was listed in the disclosure log, no reason was required when a Commission staff member visited MVA and requested to view a record. Mr. Long stated that this was required when a list was requested

or when a lawyer wanted a driving history in excess of three years.

MVA representatives pointed out that state, local and federal governmental agencies can obtain a total record. Mr. Hanratty noted that this was not indicated in MVA's reply to his questions.

In addition, the lack of verification of the identity of the requestor was discussed. MVA representatives indicated that procedures in this area were being developed and agreed that maintenance of disclosure logs was pointless without verification of the identity of the requestor.

Mr. Hanratty also discussed the response of MVA to the question regarding whether a security risk analysis had been conducted. MVA officials stated that they had not understood exactly what was entailed by the term "risk analysis." Mr. Heckrotte and Senator Hickman discussed the various aspects of a risk analysis. MVA representatives noted that, to their knowledge, no such analysis had been conducted. The officials stressed that physical security was good and indicated that they had focused on security measures aimed at preventing the altering of data rather than measures preventing access to data since driving records are public documents. It was also noted that a security officer had recently been appointed. Mr. Drea suggested that the Commission might recommend that a risk analysis be performed across the state for every agency.

Discussion ensued concerning the accessibility of MVA records through the judicial system. Mr. Robert Smith, Assistant Attorney General, brought up the point that once Medical Advisory Board records are turned over to a court on appeals, they become court records and are available for public inspection. Mr. Drea inquired as to who was responsible for the security of computer terminals in the courts. MVA officials indicated that responsibility fell within the jurisdiction of the courts. Mr. Drea

cited an incident illustrating the need for a closer examination of the security of these terminals. Senator Hickman added that security should be the responsibility of the agency that generates the information.

The issue of expungement was again discussed. Expungement is not an automatic process, but instead is only performed upon the request of the driver. MVA representatives explained that when the driver meets the criteria for expungement, he must sign a statement indicating that there are no outstanding citations that have not been adjudicated. If expungement were automatic, it would be difficult to verify whether any outstanding citations existed.

Mr. Hanratty noted that the Commission had received a complaint from a driver who stated that he was denied access to his complete record and was only able to obtain it after signing a statement indicating that it was for his own personal use. MVA representatives felt that this was probably due to a clerical error. Mr. Hanratty asked that MVA officials check with the Gaithersburg office to find out what happened.

Mr. Hanratty asked if MVA representatives felt there should be any restrictions on the information disseminated by MVA or whether the individual driver had any right to restrict the use of information. MVA officials indicated that they would provide written comments to these issues to the Commission.

Senator Hickman stated that the Commission had delineated several "principles of privacy" in the Interim Report and asked if MVA representatives had any disagreement with any of the principles. Mr. Hanratty added that he had sent the Interim Report to Mr. Bertak. MVA officials indicated that written comments would be forwarded to the Commission.

The next meeting of the Information Practices Commission was scheduled for June 8, 1981.