
Committee Meeting

of

ASSEMBLY TRANSPORTATION COMMITTEE

“Testimony concerning employee commuter van services in the State of New Jersey”

LOCATION: 462 Market Street
Perth Amboy, New Jersey

DATE: March 7, 2005
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John S. Wisniewski, Chair
Assemblyman John J. Burzichelli
Assemblyman Upendra J. Chivukula
Assemblyman Gordon M. Johnson
Assemblyman David R. Mayer
Assemblyman Vincent Prieto
Assemblyman Brian P. Stack
Assemblywoman Linda Stender
Assemblyman Peter J. Biondi
Assemblyman Kevin J. O’Toole



ALSO PRESENT:

Nancy M. Lipper
Maureen McMahon
Office of Legislative Services
Committee Aides

Christopher Jones
Assembly Majority
Committee Aide

Jerry Traino
Assembly Republican
Committee Aide

Meeting Recorded and Transcribed by
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ASSEMBLYMAN JOHN S. WISNIEWSKI (Chair): Good morning, everyone. If you would kindly take your seats--

I'd like to call this meeting of the Assembly Transportation Committee to order.

I'm Assemblyman John Wisniewski. I represent the 19th District. We're in Perth Amboy, one of the communities -- along with my colleague Assemblyman Joe Vas.

Today, we're going to be considering an issue of important public safety and health involving commuter vans, and how they're regulated, and how safe they are, and what we can do -- as a legislative body -- to improve that.

If you have a cell phone or a pager, I'd ask that you turn it to either off or vibrate.

And if you are interested in testifying today, there are forms at the table in the back. I'd ask that you clearly write your name. If there's an organization you're with, indicate that. And if you need a translator, let us know that. We have two translators from the Office of Legislative Services -- if they would raise their hands. They're right up here to the front. If anyone wishes to use their services in order to provide testimony, we'd be happy to accomodate you. Just let us know.

Maybe you could just repeat what I said about translators. Just come up to the microphone here.

ROBERT VAN NORMAN WHITFORD: (Speaking in Spanish)

ASSEMBLYMAN WISNIEWSKI: Gracias. Thank you.

Could we have a roll call, please?

MS. McMAHON (Committee Aide): Assemblyman O'Toole.

ASSEMBLYMAN O'TOOLE: Here.

MS. McMAHON: Assemblyman Gibson is absent.

Assemblyman Biondi.

ASSEMBLYMAN BIONDI: Here.

MS. McMAHON: Assemblywoman Stender. (no response)

Assemblyman Stack. (no response)

Assemblyman Prieto.

ASSEMBLYMAN PRIETO: Here.

MS. McMAHON: Assemblyman Mayer.

ASSEMBLYMAN MAYER: Here.

MS. McMAHON: Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Here.

MS. McMAHON: Assemblyman Chivukula. (no response)

Assemblyman Burzichelli.

ASSEMBLYMAN BURZICHELLI: Here.

MS. McMAHON: Vice Chairman Caraballo. (no response)

Chairman Wisniewski.

ASSEMBLYMAN WISNIEWSKI: Here.

Thank you.

This is an issue that has concerned myself and many of my colleagues for some time. The local newspaper did a very detailed series of articles on the issue of these vans, the people who use them, and the safety risks they pose, both to the occupants and other vehicles.

One of the stories begins: “Scores of immigrants risk death daily to get to work in central New Jersey. They pay for rides in vans that skirt the law and pose a safety hazard, according to police.” That story, and the series of stories, got my attention and the attention of members of this Committee. It’s an issue that we need to address.

However, before we propose any legislative solutions, we need to understand the issue and the problems. We’re mindful of the fact that if we create or require additional regulation, we may make this method of transportation cost prohibitive for the people who use it. On the same note, we certainly don’t want to let cost stand in the way of safety of those people who use these vans, and also the safety of other motorists on the highways.

With that, I’d like to first call upon my colleague in the 19th Legislative District. He is not only the Assemblyman representing this district with me, he also happens to be the mayor of the city of Perth Amboy. And to welcome us, and to make a brief statement, I’d like to welcome Assemblyman Mayor Joseph Vas. (applause)

A S S E M B L Y M A N J O S E P H V A S: Thank you, Chairman Wisniewski and to all the members of the Transportation Committee. Welcome to the city of Perth Amboy, a city we fondly refer to now as the Riveria of New Jersey. We’re proud of the many physical and social changes that are occurring within our city -- the influx of private capital investment nearing almost \$2 billion today -- and the great geography that our good Lord has blessed us with.

I’d like to thank Chairman Wisniewski, and all the members of the Committee today, for taking up this very important public safety issue, not

only as how it relates to the passengers of commuter vans, but more importantly as it relates to all the other pedestrians and vehicles that are on the road at the same time.

The issue of public safety is one that, obviously, is of great importance, one that transcends the economic aspects of the issue and, certainly, one that needs to be taken up today, as we see an increased number of commuter vans throughout this state, not only in urban areas, but also in suburban and rural areas of our state. And so this is a very important and germane issue that should be discussed and considered before any additional regulatory changes are considered and made through legislation.

And I'd like to take this opportunity to thank you all for taking this issue so seriously and, particularly, for hosting this meeting here in the city of Perth Amboy. And, again, welcome to Perth Amboy.

ASSEMBLYMAN WISNIEWSKI: Thank you, Mayor.

Not only has Mayor Vas, Assemblyman Vas been hospitable to us, I also want to point out that we are in the iron workers' hall. And I'd like to thank John Wade, and Bill Nagy, and the iron workers for opening up their facility to us today. They've provided ample room and parking. And we're grateful that we've had the opportunity to be here.

We have quite a few people who have signed up to testify. I'd like to start with a presentation by the New Jersey Motor Vehicles Commission and the NJDOT Commercial Bus Unit. For that purpose, I'd like to call up George Spencer, Principal Investigator; Vincent Schulze; and Joseph Spinelli.

And if I've left out anybody in your group, please have them come up, as well.

For the purposes of the transcript we're creating today, if you could identify yourself before you speak, so that we'll know for future reference who you are.

V I N C E N T S C H U L Z E: Good morning, Mr. Chairman and members of the Committee.

My name is Vincent Schulze, and I'm the Chief of the Motor Vehicle Commission's Commercial Bus Inspection and Investigation Unit.

Thank you for inviting me to address the Committee concerning commercial bus inspection issues, in particular problems dealing with alleged illegal van and small bus operations in the Middlesex County area.

Our primary function as the Commercial Bus Unit is the oversight of safety inspections for New Jersey's commercial bus fleet, which are defined by statute as autobuses, and encompass approximately 6,000 buses, including New Jersey Transit and the private carriers. Any vehicle designed to carry more than 15 passengers, including the driver, are subject to Motor Vehicle Commission inspection by the Commercial Bus Unit, regardless of the type of service. Any autobus -- regardless of passenger capacity -- if used in regular route service, is subject to Motor Vehicles Commission inspection by the Commercial Bus Unit.

Other functions of the Commercial Bus Unit include roadside safety inspections under the Federal Motor Carrier Safety Assistance Program -- that's also known as MCSAP -- post-accident inspections, investigations of illegal operations and citizen complaints, and enforcement of the New Jersey Bus Safety Compliance Act. Commercial Bus Unit investigators are authorized

to issue summonses for safety violations found during roadside inspections of commercial buses.

Over the past several years, the Commercial Bus Unit has been involved with various local municipalities throughout New Jersey, including Perth Amboy, in performing coordinated roadside safety inspections of alleged illegal and/or unsafe small buses and vans. This program was initially implemented in conjunction with the South Brunswick Police Department as a response to several fatal van accidents involving the for-hire transportation of day workers in the general Middlesex County area. Investigations into the accidents revealed that the operators of these vehicles were engaged in the business of transporting passengers for hire without following regulations set forth in statute 48:4. The primary passengers of these vehicles originated from temporary staffing agencies. In order to operate legally, every van and small bus operator must have a Certificate of Public Convenience and Necessity to operate a regular intrastate route. This certificate must be issued prior to the in-terminal safety and specification inspection conducted by the Commercial Bus Unit.

Many illegal companies operate over legal routes that are granted to operators who possess New Jersey Certificates of Public Convenience and Necessity. Circumvention of the law allows these illegal operators to bypass the inspection and insurance requirements, thus allowing them to operate at much lower costs than certificated operators. Unfortunately, these actions put the passengers at serious risk and, at the same time, put intolerable economic pressure on the legal operators.

Investigations into these illegal operations often reveal deplorable vehicle maintenance, grossly overloaded vehicles, and inadequate or no liability insurance. In many cases, the Motor Vehicles Commission has contacted the home addresses -- the home offices of these operators' insurance companies and found that if the insurance policy was not canceled, most were not even aware that their clients were involved in the business of for-hire transportation.

The coordinated roadside inspections with the South Brunswick Police Department began in 1999. As the program progressed, other local municipal police departments began requesting Commercial Bus to perform coordinated safety inspections, including New Brunswick, North Brunswick, Perth Amboy, and South Plainfield. Other municipalities, including Jamesburg and Cranbury, participated in coordinated roadside van inspections. Coordinated roadside inspections began in Perth Amboy in September 2002. Four checks were done in coordination with Perth Amboy police, and a total of 64 vehicles were inspected. Thirty-three vehicles were placed out-of-service, for an average of 52 percent.

Since the inception of this program in 1999, 79 coordinated roadside inspections have been performed. Twelve hundred eighty-three vehicles have been inspected, and 479 vehicles were placed out of service for serious safety violations and/or lack of proper insurance. In addition to the vehicles placed out of service, 269 drivers were cited for other violations, including fictitious credentials and improper driver's licenses. A total of 58 percent of vehicles and/or drivers were placed out of service. Close to 7,400 total safety violations were discovered during these coordinated roadside inspections. Just a few examples of safety issues found were: overloading of

passengers, serious brake and steering problems, and a general lack of preventative vehicle maintenance.

When it is determined that van or small bus companies are operating illegally, Commercial Bus investigators provide the operators with written guidelines and directions on how to contact Motor Vehicles Commission to become legal bus operators in the State of New Jersey. The Motor Vehicles Commission will be sending out formal letters to all various municipal police departments throughout the state within the next month, inviting them to contact our Commercial Bus Investigation Unit and participate in our coordinated bus safety inspection program.

This is Principal Investigator George Spencer. And Senior Investigator Joe Spinelli would like to give a PowerPoint presentation with a little more background of what we see out there.

If you have any questions, please--

ASSEMBLYMAN WISNIEWSKI: Why don't we do the presentation? And then we can ask questions afterwards?

MR. SCHULZE: Sure.

ASSEMBLYMAN WISNIEWSKI: If they need a microphone, pass one down.

JOSEPH SPINELLI: Good afternoon.

I'd like to thank the Committee for inviting us and allowing us the time to make this presentation.

(Begin PowerPoint presentation)

My name is Joe Spinelli, and I'm Senior Investigator with the Motor Vehicles Commission's Commercial Bus Inspection and Investigation Unit.

I've been with the Commercial Bus Unit since 1998. Prior to joining the unit, I worked as a mechanic for both the Department of Transportation and private companies for approximately 14 years.

I've been assigned to the Middlesex-Somerset county area for approximately four years, and I've become very familiar with the various types of operations and businesses currently being conducted in these areas. I've been present for 98 percent of the roadside compliance inspections and have worked individually with several of the officers within the participating municipalities.

The collection of information we're presenting today represents some of the various situations and mechanical defects that are discovered during these road checks. Information and data we collect during these road checks provides our unit with essential evidence needed to conduct thorough investigations into the nature and legality of the operations being conducted by these operators.

If you have any questions concerning the mechanical aspects of the pictures, or would like an explanation of how a certain part relates to the operation of a vehicle, I'd be glad to take a moment to explain. Otherwise, Mr. Schulze or Mr. Spencer can answer your questions concerning the procedures of the inspection.

These are pictures that I took on January 31, 2005, at one of the warehouse locations bordering South Brunswick and Cranbury, near Exit 8A

of the New Jersey Turnpike. What I observed that afternoon, in addition to an improperly registered vehicle, is what appears to be someone transporting workers to this facility in a bus that's owned by an adult daycare transportation service or provider. This vehicle itself was improperly registered. It had X tags on it. He should have had omnibus tags on the vehicle to transport people here.

ASSEMBLYMAN WISNIEWSKI: Was that the only violation? He just had the wrong tags?

MR. SPINELLI: Well, he wasn't inspected by us. He wasn't subject to an enhanced inspection. The adult daycare centers are claiming that they're under paratransit, which is exempt from our inspection.

ASSEMBLYMAN WISNIEWSKI: Why?

MR. SCHULZE: Paratransit vehicles, some years ago -- I think we're going back about 10 years. Paratransit vehicles are generally a mini-type bus. They're usually 25 to 30 passengers, in that capacity there. And, years ago, because they wouldn't meet our specification inspections for head room -- which is 75 inches -- legislation was passed, unbeknownst to us, to exempt them from under our regulations for inspection.

ASSEMBLYMAN WISNIEWSKI: Okay, I'm sorry. Please continue.

MR. SPINELLI: This road check was conducted at Harrah Boulevard (phonetic spelling), in South Brunswick, on November 8, 2000. It was around 9:00 in the morning.

The majority of the vehicles have already dropped their passengers off at work and were directed, by the South Brunswick Police, to proceed to

the inspection site. Officers will either have observed passengers aboard, or observed the bus unloading at its destination. The number of vehicles in this line for inspection represents a small fraction in the amount volume of vehicles traveling around these areas. That's probably about a quarter-mile stretch of road.

ASSEMBLYMAN WISNIEWSKI: How many vans are lined up?

MR. SPINELLI: At least 15 or 20 vehicles.

This check was also conducted in South Brunswick on May 12, 2004. This picture was taken around the same time in the morning -- around 9:00. The operation was one of the first, if not the first, where more than one municipality was involved. Monroe Township and, I believe, Cranbury Police also worked in conjunction with South Brunswick Township during this check. The location was seeing some (indiscernible) in the increased volume of vehicles. I'd say there's an easy 30 vehicles in line to the point where the horizon drops off. And there were more vehicles back there, also.

This check was conducted in Perth Amboy on August 30, 2004. This picture was taken earlier in the morning, around 8:00. Once again, the line of vehicles is a small indication of the volume of vehicles traveling around this area.

What you see here-- It's a rear brake line of a full size, 15-passenger van that was left disconnected from its wheel cylinder. Brake fluid travels through this line and actuates the wheel brake cylinder to which it should be connected. The wheel brake cylinder, in turn, actuates the brake shoes to stop or slow the vehicle. It appears that someone recently replaced the wheel cylinder and either destroyed the line or neglected to reconnect it.

Regardless, without the line connected, this vehicle had no rear brakes and was impounded.

Right there is where it should have been connected. And there's the line laying down there. The wetness is actually the brake fluid that's been pumped out of the system.

Earlier that same morning, in South Brunswick, we inspected this vehicle. It's another full-size, 15-passenger Dodge van that has a severely worn left front driver side motor steering ball joint. I inset a diagram to show how this relates to the overall steering of the van. This part has already failed, and it should have been replaced long before. A catastrophic failure of this part would, undoubtedly, cause the driver to lose control of the steering and, most likely, send the vehicle into oncoming traffic. It was on the left side of the vehicle. Should he have lost the connection right there, where the tire is, the front end of the van is going to nosedive down to the left, and it's going into oncoming traffic.

And this slide is a repair that was made to the rear brake line of this vehicle. This problem is with-- The problem is, when the mechanic replaced the line, he didn't route the line as the original was. The line now passes directly between the rear axle and the body (indiscernible) bushing, right over here. The purpose of the bushing is to absorb shock when the rear axle bottoms out. As the vehicle travels down the road, the body will rise up and down. The axle will move up and down. When they are loaded up and they hit a bump, those two pieces are going to come into contact with each other. With the line in there, it just winds up pinching the line right off, and

he loses the brakes on the back of that vehicle. And, keep in mind, the van usually carries a full load of passengers.

This vehicle-- This was used by a staffing company. As you can see, three of the four lug nuts were left off or missing. You've got one, two, three -- two there. There's three missing in that picture up there. The interesting part about this is that this vehicle was inspected approximately 24 hours prior, in Perth Amboy. When our unit inspected it then, the vehicle was removed from service and the license plates removed. The vehicle was then impounded. The next morning, the same vehicle appeared on a road check in South Brunswick. The van had the same violations, different set of license plates.

ASSEMBLYMAN WISNIEWSKI: If it was impounded, how did it get out?

MR. SPINELLI: We had no authority to hold the vehicle. It was an illegal vehicle. It shouldn't be carrying people for hire, anyway. The only thing they needed at the time to get the vehicle out was a good New Jersey registration and insurance card. And that's exactly what they did.

ASSEMBLYMAN WISNIEWSKI: So they just show up with the registration and insurance card. They take it from the police lot.

MR. SPINELLI: Right. The second time around, we put a stop on the title, and they could not -- they couldn't flip the registration over again.

ASSEMBLYMAN BIONDI: But if it's an unsafe vehicle, shouldn't it have been towed to a repair shop to be corrected?

MR. SPINELLI: That was the whole idea. They should have towed it to a repair shop and had it repaired. But once-- We have no

authority over the vehicle, being it was never inspected under us, there's no manpower to follow up on that.

ASSEMBLYMAN WISNIEWSKI: Was it a manpower issue or an authority issue?

MR. SPINELLI: A little bit of both.

ASSEMBLYMAN JOHNSON: Through the Chair, I think it's an authority issue. The law enforcement cannot mandate that a vehicle is towed to a repair yard.

ASSEMBLYMAN WISNIEWSKI: They can't?

ASSEMBLYMAN JOHNSON: I don't think so. Law enforcement can take a vehicle off the road and impound it, of course, under their charge. But they cannot take it to-- I don't think they can. We can take it -- we -- law enforcement can take it to a repair yard.

ASSEMBLYMAN WISNIEWSKI: Just for the people here, you have a law enforcement background. That's why you were saying "we."

ASSEMBLYMAN JOHNSON: Yes.

ASSEMBLYMAN WISNIEWSKI: Please continue.

MR. SPINELLI: This operator here -- he was inspected previously. After a vehicle is removed from service, this white and red sticker is affixed to the inside of the windshield. It's this piece of paper right here. The operator attempted to conceal the sticker by coloring over the outside of it in marker. He tried to take it off and then realized he couldn't do that. So then he just decided to color over it. He was later stopped by New Brunswick; and New Brunswick police, in turn, called us. And then we had the van impounded. There were passengers aboard the van when he was stopped.

This is another situation we sometimes encounter during these checks. A van driver presented Perth Amboy Detective Richard Cielez with this license. It's a very good counterfeit, except for the obvious misspelling of the word *license*. (laughter) According to the man that presented it, it cost him \$1,000 to obtain that license.

ASSEMBLYMAN WISNIEWSKI: Now, there was a series of fixes put in place for the Motor Vehicles Commission. And does this predate those fixes, or is this still something that's happening, even though those fixes were put in place?

MR. SPINELLI: Well, the old licenses are still out there.

ASSEMBLYMAN WISNIEWSKI: Okay.

MR. SPINELLI: And until everybody's license expires, and they get a new digital license, you're still going to see this.

Since we rarely photograph passengers aboard the vehicles, we decided to use the two pictures that were taken by Joe McLaughlin and used in Michelle Sahn's article from the *Home News Tribune*. These pictures depict the common overloading and improper seating within these vehicles. Right over here-- You ever see those little chairs that your kids sit on? That's what they are. They load them into the back of the vehicles.

ASSEMBLYMAN WISNIEWSKI: They're not affixed in any way. They're just sitting--

MR. SPINELLI: No, they're just freestanding.

ASSEMBLYMAN WISNIEWSKI: So if there's a collision--

MR. SPINELLI: Those people are going.

The way the people are seated-- But the way these people are seated around here, there's no seats back there. They're just pretty much kneeling, unless there's a spare tire or something that they can sit on, or cushion.

Here's another example. Perth Amboy police impounded this vehicle. I believe there were passengers sitting on the cushions and tire of the rear vehicle. Back over here are where the cushions and everything else is. And the driver expects to be tipped for his ride.

In this slide, we have a vehicle that's being used by a private daycare center. The inspection has long been expired. And the tire and fire extinguisher are, as you see in the pictures when it was stopped-- You can't see too well in the picture, but the fire extinguisher is discharged. The vehicle inspection expired in '02. And from what Rich told me, I think he pulled that over in '03.

ASSEMBLYMAN BIONDI: Is that owned by the daycare, or is that a subcontractor?

MR. SPINELLI: That was owned by the daycare center.

ASSEMBLYMAN PRIETO: Most of these violations, are they by unlicensed, unregistered -- to your department -- as I gathered.

MR. SPINELLI: Yes, except--

ASSEMBLYMAN PRIETO: What percent--

MR. SPINELLI: --except for the one that had the red sticker on it.

ASSEMBLYMAN PRIETO: Right.

MR. SPINELLI: That was a legal operator under our company. But that's when we get into-- He used the vehicle.

ASSEMBLYMAN PRIETO: What percentage of the people that you license and you registered have a lot of violations? Or is it predominantly the illegal operators?

MR. SPINELLI: It's predominantly the illegal operators. I mean, the percentage that are legal operators-- Honestly, they're trying to compete, because there's such a vast amount of illegal operators out there. I mean, they're wrong. Don't make any mistake there.

ASSEMBLYMAN BIONDI: Inspector, how are these vehicles registered? As a passenger vehicle or as a commercial vehicle?

MR. SPINELLI: This one here is registered as a commercial vehicle, going by the X tag on it.

ASSEMBLYMAN BIONDI: But they're exempt from you, because they're under the 75 inch head room.

MR. SPINELLI: No.

ASSEMBLYMAN BIONDI: Did I misunderstand that before?

MR. SCHULZE: That was another issue -- those were the paratransit. That's how -- paratransit vehicles are not under our jurisdiction.

ASSEMBLYMAN BIONDI: Oh, I'm sorry. I didn't hear the paratransit.

SUE KLEINBERG: Let me just introduce myself right now. I'm Sue Kleinberg. I'm a Regulatory Officer with the Motor Vehicles Commission. And I do the routes and rates program in the Motor Vehicles Commission. So I can answer any questions you have about authorities.

ASSEMBLYMAN BIONDI: Whose authority does this come under?

MS. KLEINBERG: This should come under the Motor Vehicles Commission authority. The problem is that when someone goes into an agency and says he has a pickup truck to register, no one is going out there to check that it's a pickup truck. So he can get his commercial tags. If he says he has a sedan, nobody's going to check that it's not a passenger vehicle. People can go in and get their tags, and put it on the vehicle. And the way we stop this is to notice that it does not have omnibus tags. That kind of vehicle has got to have omnibus tags. It's not going to get omnibus tags without a Certificate of Public Convenience and Necessity, which it gets from us. It does not get the omnibus tags until it's inspected. So if you see a vehicle carrying passengers with an X tag on it, you know that's illegal.

ASSEMBLYMAN BIONDI: An X tag?

MS. KLEINBERG: In other words, a commercial tag. The same kind of thing you'd see on a construction pickup truck.

ASSEMBLYMAN WISNIEWSKI: Assemblyman.

ASSEMBLYMAN JOHNSON: One question, through the Chair. How much -- if you know-- How much is the motor vehicle insurance for a vehicle with omnibus tags, versus X tags? Is it more?

MS. KLEINBERG: A lot more.

ASSEMBLYMAN WISNIEWSKI: Is it in the order of double, three times?

MR. SCHULZE: An average, for a van, is probably \$7,000 -- \$8,000 per vehicle.

ASSEMBLYMAN WISNIEWSKI: With omnibus tags.

MR. SCHULZE: Right. Or for a passenger car. Think of your own passenger vehicle, whatever that is. You're talking thousands of dollars.

ASSEMBLYMAN WISNIEWSKI: So if you get the X tags -- the X commercial vehicle tags, you're talking \$2,000, \$3,000 versus omnibus, \$7,000, \$8,000.

MR. SCHULZE: Omnibus is the highest, right.

And X tags-- There shouldn't be an X tag on any vehicle in the State of New Jersey that carries passengers. X tags are only for cargo.

ASSEMBLYMAN WISNIEWSKI: So even the adult daycare vans that you talked about earlier-- Those also have omnibus tags.

MR. SCHULZE: They get passenger tags.

ASSEMBLYMAN WISNIEWSKI: They get passenger tags.

MR. SCHULZE: The paratransit.

ASSEMBLYMAN WISNIEWSKI: I'm sorry, paratransit.

MS. KLEINBERG: Every adult daycare center doesn't get -- is not a paratransit vehicle. A paratransit vehicle is a very narrow definition. It has got to be part of the county plan, because many counties have senior citizens transportation plans. A paratransit van -- it has to be part of that plan, according to the statute as it's now written.

ASSEMBLYMAN WISNIEWSKI: Let me just ask you a question. If we have vans carrying people, shouldn't they all be registered exactly the same way?

MS. KLEINBERG: That's right, with omnibus tags.

ASSEMBLYMAN WISNIEWSKI: But that's not the way it is right now?

MS. KLEINBERG: Well, the legal ones have omnibus tags. The illegal ones, of course, can't get them.

ASSEMBLYMAN WISNIEWSKI: Except the paratransit.

MS. KLEINBERG: If it's paratransit, it would have a regular passenger vehicle. In other words, the same kind of tag that you would have on your personal vehicle.

ASSEMBLYMAN WISNIEWSKI: Does that make sense?

MS. KLEINBERG: No.

ASSEMBLYMAN WISNIEWSKI: Okay.

ASSEMBLYMAN JOHNSON: Mr. Chair.

ASSEMBLYMAN WISNIEWSKI: Yes.

ASSEMBLYMAN JOHNSON: I need the definition of paratransit.

MS. KLEINBERG: Paratransit is a vehicle that takes disabled or senior citizens, and is part of the county plan. There are county plans that are filed -- I think they go through New Jersey Transit. They get-- Many of them are subsidized by the Federal government. Those paratransit plans have -- include vehicles that transport--

ASSEMBLYMAN JOHNSON: They list these different companies that are transporting--

MS. KLEINBERG: They can be subcontracted out to -- or the county can do it itself.

ASSEMBLYMAN CHIVUKULA: Chairman.

ASSEMBLYMAN WISNIEWSKI: Yes, Assemblyman Chivukula.

ASSEMBLYMAN CHIVUKULA: I just have a question.

Doesn't each vehicle have a vehicle identification number? And doesn't that identification number identify what type of vehicle it is?

MS. KLEINBERG: It does, but you can't tell-- The type is very general. It can be-- For instance--

ASSEMBLYMAN CHIVUKULA: A pickup versus a van -- there's a difference? Isn't there a difference?

MS. KLEINBERG: A pickup versus a van is a difference. But say a Ford F -- I think it's an E-350, can be any size. It can't be any size, but it can be a small van that would not require an omnibus tag.

ASSEMBLYMAN JOHNSON: It could be configured in any way.

MS. KLEINBERG: Or it can be much larger. And you can't tell from the VIN. Believe me, I've tried.

ASSEMBLYMAN WISNIEWSKI: You're talking about the configuration, internally.

MS. KLEINBERG: That's right.

ASSEMBLYMAN WISNIEWSKI: You could have a van that you take your wife and kids around in, or you could just put bench seat after bench seat, and use it as a commuter van.

MS. KLEINBERG: Well, that's probably illegal also. We're talking about the--

ASSEMBLYMAN WISNIEWSKI: No, no. What I'm saying is that, if it's a van, that I just buy--

MS. KLEINBERG: For your own personal use.

ASSEMBLYMAN WISNIEWSKI: --for my family, that same van could then also be reconfigured to use it in an improper fashion.

MS. KLEINBERG: Correct.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Biondi, and then Assemblyman O'Toole.

ASSEMBLYMAN BIONDI: Thank you.

Through the Chair, what is the penalty, currently, for operating one of these vans and illegally transporting passengers without the omnibus plate and without the required insurance and inspections?

MS. KLEINBERG: It would probably-- Well, there are two questions. One is without the authority. And that penalty is \$500 a day for the first five days. After that, it goes to \$600, then \$700, then \$800, up to \$1,000 a day for -- after 10 days.

ASSEMBLYMAN BIONDI: Is the vehicle impounded?

MS. KLEINBERG: Impounding has to do with the improper registration. If, for instance, it did not have the proper registration -- which is-- I'm trying to think of an example where it could have a proper registration and still not have authority. If, for instance--

Well, I can think of one right now. Authority goes with a route. So if it had, for instance-- If it was licensed to take people to Atlantic City, say, but was not licensed to take people from one place in Middlesex County to another, it would still be in violation, but it would be properly registered. It would have its omnibus tags. So it would be subject to the \$500 a day, up to \$1,000 a day on the tenth day and beyond that.

It could be impounded if it is unregistered or uninsured. You don't allow vehicles like that to keep driving. It can also be placed out of service if it fails inspection for certain types of failures -- the ones that are more dangerous. They are likely to cause imminent breakdown or crash. That would be placed out of service.

Now, a legal -- something that was legally registered, that was placed out of service, would be towed to a place where it could be fixed. If it's illegal, if it doesn't have a registration and doesn't have an insurance card -- or it doesn't have insurance -- now it's going to be impounded.

ASSEMBLYMAN BIONDI: Follow-up question, if I may, Chairman, through you.

ASSEMBLYMAN WISNIEWSKI: Sure.

ASSEMBLYMAN BIONDI: If it's proper registration, proper insurance as a passenger vehicle--

MS. KLEINBERG: Right.

ASSEMBLYMAN BIONDI: --but, yet, they're performing an illegal act of transporting human beings in unsafe conditions, what is the penalty for that? Maybe that's where we need to go here, Chairman.

MS. KLEINBERG: I'm going to defer to you, because I don't recall.

ASSEMBLYMAN WISNIEWSKI: Maybe.

MS. KLEINBERG: That's under the Bus Safety Compliance Act. If it's actually-- In other words, if there's a safety violation-- I know if it's an out-of-service violation, it can be towed. The actual fine -- that, I don't recall.

MR. SCHULZE: The fines go up to \$5,000, under the Bus Safety Compliance Act, which is a little bit different from this van situation. We usually do this on MCSAP and other roadside inspections -- Atlantic City, in this area here, Great Adventure, Liberty Park, places where buses congregate. And for any major safety violations -- there's about 140 all told -- we issue summonses that go anywhere from \$100 up to \$5,000. We can also impound the vehicle, if we deem so fit that it needs to be impounded for any unsafe condition.

ASSEMBLYMAN BIONDI: I'm just thinking-- We're sitting here, and we're looking at individuals in the most unsafe conditions you can have on the highway. Is there-- Maybe we need to look at legislation that will allow for the revocation of a registration of a vehicle that's performing an illegal act.

We need to give you -- and I see two sergeants sitting here -- tools to put an end to it -- just stopping them and saying, "Well, they failed inspection," or, "Gees, you're carrying passengers, and you shouldn't be. And we're going to fine you *X* amount." We need to stop them. And I think maybe that's where this Committee can play a role.

ASSEMBLYMAN WISNIEWSKI: Absolutely.

Assemblyman O'Toole.

ASSEMBLYMAN O'TOOLE: Thank you, Chair.

First of all, I want to commend you, John, for bringing this very important topic to light here. It's something I was not aware of before I came in here today. I certainly appreciate you coming out to Perth Amboy where, it seems to me, we have a very pervasive problem.

And, Chair, I've got to tell you just a couple comments before I have some questions. It seems to me, now that we have all been enlightened to some degree, that we have a very massive, widespread, pervasive fraud that's being perpetuated, not only on society, but on the children who are being subjected, or your workers, and those members of our society who are in harm's way as these buses or vans are going back and forth. And I will tell you, it is an eye-opening experience, listening to some of the testimony. And I will tell you, I think we're probably taking a fly swatter to an attack of swarming bees here. And it seems to me this problem is much greater than just this Commission, with an inspector or two going out in spot checks, or having some of the local police-- It seems to me that we have various Federal, and State, and local authorities that need to be brought into, perhaps, a larger task force. Whether it's Immigration, whether it's Banking and Insurance, whether it's the Attorney General's Office, whether it's IRS -- whether there's real taxes being paid by some of these owners. Whether there's a county prosecutor's office that needs to be brought in line here, as well.

From the testimony we've heard, at one point you're talking about 52 buses or vans who have been taken off after inspection. I agree with my colleague Assemblyman Biondi. If there is a violation, or a license, or a registration out of place, we have to impound that vehicle immediately and get out of harm's way. Forget the bureaucracy and the nonsense about whose responsibility and jurisdiction. Get those vehicles off.

We have enforcement issues and education issues here. And I think we have to do a stronger job and, perhaps, dedicate more resources -- locally, and county, and State -- to try to get these unsafe vans-- And this

market -- this subculture of a market should not exist, because it is so problematic on so many different levels.

And we have an education problem. I assume, from the testimony I've heard, is that we have a Spanish-speaking clientele that are provided these services. So have we provided the Spanish-speaking media, newspapers, TV, radio with a hotline, with a number to say, "Look, if you find that you are riding on a bus that's either unsafe, or seems to be giving a service that's not being bargained for, or there's something wrong, call us and let us inspect." I think we need to do something broader than having spot inspections and yanking one of every two vans off the street.

And I agree with the Chairman. There probably are some legislative remedies that we need to do. But I think, first and foremost, let's get some larger working group with some more resources -- with inspectors -- and impound these vehicles immediately. If you have to arrest these individuals for fraud -- as I understand some of these -- as the prosecutors in Middlesex have done -- let's do it. Let's send a signal. We can't tolerate this type of behavior. It's dangerous.

ASSEMBLYMAN WISNIEWSKI: Thank you, Assemblyman.

Assemblyman Burzichelli.

ASSEMBLYMAN BURZICHELLI: Thank you, Mr. Chairman.

Do we have a sense, through the Chair -- maybe to those testifying -- of how many people are transported each day in these types of vehicles? Is there an estimate?

MR. SPINELLI: I had some stats after these slides. It doesn't give people, but it does give the amount of vehicles that we've done on the road checks over the entire course of the program.

ASSEMBLYMAN WISNIEWSKI: Can you extrapolate from that? If you've had X number of vans, and the vans are carrying an average of a certain number of people--

MR. SPINELLI: This was 2004. If we go to summary-to-date-- That's over the course of six years. Our unit has been able to inspect 1,283 vehicles. And if you take 1,283 and times it by 14 -- usually that's the amount of people on the vehicle -- that will give the-- It's not an exact amount, but it will give you an idea of how many people are traveling on these vehicles.

ASSEMBLYMAN WISNIEWSKI: So we're talking about upwards of 10,000 people, 12,000 people.

ASSEMBLYMAN BURZICHELLI: Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Burzichelli.

ASSEMBLYMAN BURZICHELLI: Are we thinking that's on a daily basis, or are we thinking that's on a weekly basis? What are we thinking that is?

MR. SPINELLI: That's a snapshot, probably, of a daily basis.

ASSEMBLYMAN BURZICHELLI: A snapshot of a daily basis.

Mr. Chairman, as we get that number -- as we think forward here, it becomes very clear that we're going to want to try and be as helpful as we can to allow law enforcement to do a better job but, at the same time, figuring out how to get these people to work, which is a very critical component to this. We don't want them to be transported unsafely. But they obviously are willing

and able to go to work, and we've got to get them to work. So you've got to wonder where is New Jersey Transit if you've got 10,000 or 15,000 people a day trying to move somewhere. Why aren't we moving quicker and more readily through the county -- or some arm of New Jersey Transit to move these people?

ASSEMBLYMAN WISNIEWSKI: It would seem to me that we're facing two distinct problems. And I think Assemblyman O'Toole talked about it. Clearly, we need a stronger enforcement tool.

And listening to the testimony that you've provided so far, it seems that there is a certain amount of inconsistency in the law and the way vehicles are treated -- the way you're able to obtain licenses, plates, and tags -- that you could then, perhaps, legally register a vehicle and then improperly use it. We have different standards for different types of vehicles that then can be used for improper purposes.

Clearly, there's a need -- at least regulatorily -- to clean that up. More importantly, we need to find a way to have one consistent method of dealing with it. I'm still confused. We hear *out of service*, and we hear *impound*. And in my way of thinking, when a vehicle is impounded, it's taken off the road. But the testimony that we heard was, the vehicle was impounded. They came with insurance card and registration, and the vehicle was unimpounded. So that doesn't seem like impoundment to me. Impoundment is a vehicle that's taken out of service, taken out of operation.

We need to fix that. I don't know how we do that right here -- if it's a change in law, or if it's just better enforcement or better regulations. But, at the same time, we can do all of these things, and then all of the 10,000 to

12,000 may wind up not having a way to get to work. We have to-- Is there a way we can make these illegal operators operate legally? Is there a solution in that sense? Or is it, as Assemblyman Burzichelli had mentioned-- Is there a way that New Jersey Transit can provide the service?

I see a question down there.

And Assemblyman Prieto, I'll call you first.

ASSEMBLYMAN PRIETO: Thank you, Chair.

My question was, the amount of people that need the transportation-- Is there enough registered vehicles to accomodate this, or no?

MR. SPINELLI: I would have to say no at this time. That's why the illegal van flourishes -- because there aren't enough legal operators that are around to do this.

ASSEMBLYMAN PRIETO: Is it that the cost is too high for them, especially with the insurance and all that?

MR. SPINELLI: I would say yes.

ASSEMBLYMAN PRIETO: I'm familiar with taxis and limousines that are basically delegated to the municipal level, and they're licensed through there -- and to get their certificate. And I dealt with that. That has a lot of problematic areas, also, opposed to limousine insurance and taxi insurance. Is there any way that -- in particular -- that you can do something to give incentive to these companies to be able to become legal, to make it a little more feasible?

MR. SPINELLI: I believe Sue had--

MS. KLEINBERG: Well, of course, there's the carrot and the stick. There's the enforcement. If you know your vehicle is going to be

impounded, you have a strong incentive-- Unless you think you can make a living in one day, you have a very strong incentive to get that vehicle in compliance.

Part of the problem is that the illegal -- with the economics -- is that the illegal operators are placing economic pressure on the legal operators. We're not talking-- The passenger population is not wealthy. They are hard put to pay the illegal operators. They will be harder put to pay the legal operators. But there are enough legal operators out there so that they probably can do it. It won't be easy, but they can do it. And in the long run-- There's certainly a woman who would be alive today if she had been in a safe van. And I'm sure her life was worth the extra couple of dollars that it would have cost her to be in a legal van.

I guess the carrot could be financial. And I don't, frankly, know where that would come from.

ASSEMBLYMAN PRIETO: That appears to be, also, maybe education -- be one of the main focuses that--

MS. KLEINBERG: Another problem is with the insurance. When we talk about the \$7,000-- This is one problem that we see in North Jersey, where there's a lot of intrastate traffic, because there's certain arrangements that are permitted by the Federal government that are not permitted by the State.

We see many people in financial arrangements that really don't make a lot of sense for the operator of the van. But because the insurance costs so much up front, he basically has to pay somebody to pay that insurance for him, while he's still operating the service. Now, if he couldn't make a living

at that service and still pay off the insurance over time, that service wouldn't be there. But the float is too expensive for many illegal operators to bear at these prices.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Assemblyman Chivukula.

ASSEMBLYMAN CHIVUKULA: Thank you, Mr. Chairman.

I think we need to look at a much broader picture in terms of providing public transportation, especially cities like Perth Amboy. I think this is a critical area.

And we also need to look at the cost associated with -- compared to an X tag, compared to an omnibus tag, as well as the insurance costs. I mean, these people need to work, and they need to get to places. And, currently, their options are minimal or nonexistent. I think-- I mean, enforcement is one thing, but also we need to look at a bigger picture.

ASSEMBLYMAN STACK: Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: Yes, Assemblyman.

ASSEMBLYMAN STACK: I'm all for enforcement. And I agree with what everyone has said up here, today. Even Assemblyman O'Toole -- what he mentioned makes a lot of sense. I think something needs to be done, more on a statewide level, to educate those operators.

Besides being the Assembly person, I'm also Mayor of Union City. And we have them all over Bergen Line Avenue. That's got to be, probably, the main thoroughfare for commuter vans -- and into the city, right by the Lincoln Tunnel.

I think the biggest problem that we have is the insurance costs. When I talk to a lot of the owner-operators, they'll tell me -- and some of them only own one, some own 10. They'll tell me, "Brian, the main problem that we have is \$7,000 or \$8,000," and that's the figure that they use, "for insurance." And they'll openly tell you, "The reason I don't have it is because I can't afford it."

Plus, the people who operate those commuter vans -- many of them -- and I'm sure many of you sitting up here know that -- many of them work from 7:00 in the morning until 10:00 at night, six days a week. I come in contact with one family-- I was talking to him Saturday. He works from 7:30 in the morning, Monday to Friday, until 9:30 p.m., six days a week, to make a living.

And believe me, I'm all for the enforcement end. And I think that New Jersey Transit, along the way -- and I'm not looking to blame New Jersey Transit -- dropped the ball. Because many of the routes that they have on Bergen Line -- they've cut back bus service. I can't even get them to increase bus service over to New York, where buses are packed, and people are standing on Transit buses. So there's a major need for them.

I represent one of the largest immigrant populations in North Jersey. To see these vans just cracked down on, with no incentive-- And I think what Assemblyman Prieto has said, and Burzichelli-- We need to have some type of incentive to help these owners if we really want them to be in compliance.

And I think the other thing is, there's an ignorance factor there, where they really don't know what the regulations are until they get stopped at a roadside stop. So we really need to fill that void that's there.

ASSEMBLYMAN WISNIEWSKI: Assemblywoman Stender.

ASSEMBLYWOMAN STENDER: Thank you, Mr. Chairman.

I have a question about jitney services. I believe New Jersey Transit has had a program where they would offer grants for jitney services. And I know that suburban towns have tried to make use of that opportunity just to deal with their commuters and their commuter parking for people that are accessing the trains. Do we know whether or not any of these jitney service opportunities have been used, or could be used, by municipalities or by a county for this kind of service, to replace some of these operators?

MR. SPINELLI: I believe there's one out there. They call it the Route 130 Connection. It runs from Mercer County into South Brunswick Township. But it's only two vehicles -- two buses.

ASSEMBLYWOMAN STENDER: It's only two vehicles.

MR. SPINELLI: Yes.

ASSEMBLYWOMAN STENDER: So it seems to me that if we're going to try to tackle this problem, again we need better, affordable mass transportation options as we go forward, which is hard considering the budget that we're looking at for New Jersey Transit.

MR. SCHULZE: I know there is an option that some of the private -- some of the townships have leased smaller vehicles from New Jersey Transit. New Jersey Transit pays for the vehicle, and then the township pays for the insurance, the operation, maintenance of the vehicle. And Transit will

lease it to the town for a buck. So I know they're starting some of these programs around the state. There's a private carrier -- a section of New Jersey Transit that maybe some folks could contact, that are interested in seeing if that would be feasible in their area.

ASSEMBLYMAN WISNIEWSKI: I think, as with all those programs, it's a financial issue. I think the last time I checked with Transit, they had probably 10 or 20 requests for a van, or for the funding for one, for every amount of money they had to actually provide one. And the program quickly runs out of money. And it comes down to what we do as a Legislature, in terms of setting financial priorities. We need to make sure that mass transit is subsidized in this state, not only for the commuter buses that go in and out of the city, and that run up and down the Parkway or Turnpike, but also so that the people can get from Perth Amboy to Raritan Center, or from Trenton to Hamilton, so that they can get to their jobs.

ASSEMBLYWOMAN STENDER: Just as a follow-up. I just wanted to--

Are you -- on that same notion -- the program -- have you ever heard of any of the counties being involved? Because it seems to me that it's not just a municipal issue. Obviously, people are traveling from one town to another. So to put it on municipal governments for these services--

MR. SCHULZE: We do have some county vehicles that are under our jurisdiction for inspection. The county of Ocean is one.

MR. SPINELLI: Edison, Somerset.

MR. SCHULZE: So we do inspect some of those vehicles that the county actually--

ASSEMBLYWOMAN STENDER: And those are county vehicles under what program? Under this -- a county transportation program?

MR. SCHULZE: I think New Jersey Transit, again, leases the vehicles to the county, I believe.

ASSEMBLYWOMAN STENDER: For specific routes that they've identified as needing or benefiting from mass transportation options.

MR. SPINELLI: Park and Ride, and so on.

ASSEMBLYWOMAN STENDER: Park and Ride, and those kinds of things. So it sounds like we've been putting resources into the already existing commuter -- typical commuter situations, where we've got access to trains and buses going into the city.

And you mentioned a lot about the illegal repairs. That was another question I had.

ASSEMBLYMAN WISNIEWSKI: Of the improper repairs.

ASSEMBLYWOMAN STENDER: Improper repairs.

I guess my question then was, obviously these are not licensed mechanics that are doing these. What's the oversight on the mechanical side? Somebody who puts in a line so that it's being cut off to the brakes, obviously, doesn't know what they're doing.

MR. SPINELLI: Honestly, the view on mechanics-- If you think of it this way-- Someone who cuts hair needs to be licensed by the State, needs to be insured by the company they work for, before they can cut your hair. But anybody can go out there and work on the brakes of your vehicle or perform a repair on your vehicle. There is nothing, as far as who can work on your vehicles.

ASSEMBLYWOMAN STENDER: I thought-- You're saying that even mechanics shops, places that open up a business, don't have any licenses for the auto mechanics.

MR. SPINELLI: There's no standard for a mechanic. There's an ASE standard, but that's a voluntary standard. It's not mandatory.

ASSEMBLYWOMAN STENDER: I guess the issue that exists with that is that anybody is allowed to make their own repairs.

MR. SPINELLI: Exactly.

ASSEMBLYWOMAN STENDER: So somebody can say they were just fixing their own car, whether they do it right or not.

ASSEMBLYMAN WISNIEWSKI: And it seems that anybody can set up a business to do repairs, regardless of competence.

MR. SPINELLI: Exactly.

ASSEMBLYWOMAN STENDER: Thank you.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Burzichelli.

ASSEMBLYMAN BURZICHELLI: Mr. Chairman, if I may follow up, just for educational purposes for me. The others may know this.

If I own a vehicle, and I choose to get omnibus tags, am I in business? Do I have to get a certificate of route -- authorization? Maybe someone can help me with that. I'm just saying, if I go buy a van tomorrow, and I register with omnibus tags, am I automatically in business? Do I have to get permission to run people around? What happens?

MS. KLEINBERG: You can't do that. Before you-- I mean, you can go out and buy the van, but you have to apply for authority to do that. Bus companies are public utilities, and they are regulated as such. You need

a route authority to do so. Once you get that route authority-- Part of the route authority is a little paragraph on the bottom that says, "Please get in touch with the Commercial Bus Unit for an inspection."

Once that's completed, and the Commercial Bus Unit has certified that that vehicle is a good vehicle, then you can go take that card and get an omnibus plate.

ASSEMBLYMAN BURZICHELLI: Now, to follow up, Mr. Chairman, if I may.

ASSEMBLYMAN WISNIEWSKI: Yes.

ASSEMBLYMAN BURZICHELLI: So I buy the bus, or I buy the passenger vehicle, my intentions are to make an omnibus. I go through the steps you just mentioned. Are there limitations on authority for routes? Would I automatically be given the authority to-- If I walked in and said, "I want to go from here -- from Perth Amboy to Exit 8A, to the Industrial Park," am I certain I would get that?

MS. KLEINBERG: Not at all. You have to apply for the route.

Again, because you're a public utility, the State has to ensure that you can give safe, adequate, and proper service. At the same time, you are entitled to a fair return on your investment. However, the idea of a public utility is to prevent you from taking advantage of a monopolistic situation by charging any fair that you want to charge. You have to present the financial information, you have to demonstrate what route you want to apply for, you have to notify other public utility bus companies in the area, you have to demonstrate that your stops are legal -- either that the private owner will allow you to enter onto his proper, or that it's a municipally approved bus stop. As

I say, when you provide your financial information, you demonstrate, one, that you are a viable company, and that we can -- if we're going to award you this route, you're going to be able to operate it -- at the same time that your tariff is going to be a fair return on your investment without, basically, soaking the commuter.

ASSEMBLYMAN BURZICHELLI: So, Mr. Chairman--

Thank you. That's extremely helpful.

So it appears-- You just heard what it would take for me to be legal to pick up people and take them to the Industrial Park. And you talked about the education part. It sounds like you're either in it a little bit illegally or you might as well be in it a lot illegally.

So as you think this through, you can see this regulatory process, to give permission to go pick these people up, seems very cumbersome. So that-- I think it's very helpful for us to know that.

And the other thing -- the point I wanted to make was, you heard mention-- As we understand, New Jersey Transit will occasionally buy vehicles, lease them to an operator for a dollar. And I'm wondering if those who can't be made legal, and can't justify their routes -- that maybe New Jersey Transit couldn't be involved, if they're not providing the vehicle, maybe offering an insurance pool that may help offset some of the--

ASSEMBLYMAN WISNIEWSKI: That's an interesting concept.

ASSEMBLYMAN BURZICHELLI: But more importantly is, the regulatory process to get the route declared to be needed sounds like it is extremely cumbersome. And the other bus routes are going to complain. Then

the authority has to make a decision: “Do we let this van operator come in?”
These people are never going to get legal.

ASSEMBLYMAN WISNIEWSKI: What’s the time frame if
Assemblyman Burzichelli went in to apply?

MS. KLEINBERG: What we do is, we send out a letter that really
sets forth exactly what you have to do, really, in very simple, linear form.
We’re working on a Spanish version of the letter. It’s really not that bad if you
follow all the directions in the letter.

ASSEMBLYMAN WISNIEWSKI: Understood. If you’re going
to-- Because when you described going for the Certificate of Necessity, it
sounded -- at least to me -- to be a somewhat complicated process. You’re
going to put an application in. Apparently those who might be competitors,
or who might want to be competitors, who might have a service in the area, are
all going to weigh in.

MS. KLEINBERG: They don’t though.

ASSEMBLYMAN WISNIEWSKI: It might sound like this is
something you might want to have some type of representation to do for you.

MS. KLEINBERG: Our experience has been-- In the Middlesex
County area, believe it or not -- even though a lot of these vans are operating
the same routes -- nobody seems to weigh in.

ASSEMBLYMAN WISNIEWSKI: They all have certificate of
authority?

MS. KLEINBERG: A number of people have applied. Of the
applications that we have received, I don’t think I have received any objections
or comments from people in the Middlesex County area.

ASSEMBLYMAN WISNIEWSKI: And what's the time frame?

MS. KLEINBERG: The time frame, if you do it all properly, and if you can demonstrate that there's an immediate need for the route, 24 hours.

ASSEMBLYMAN WISNIEWSKI: And how do you just demonstrate there's an immediate need for the route?

MS. KLEINBERG: Well, it's got to be done by affidavits. But if you can-- If you have-- If, for instance, you're taking people to a factory, you have a letter from the factory owner that says, "I have to staff my-- I have to staff this shift. And my employees don't have any transportation." That's one way. Some people submit lists of passengers. I've had affidavits in Spanish of people who say, "I need the work. I can't get to the work. There's no public transportation unless I have this service." That's enough.

ASSEMBLYMAN BURZICHELLI: Mr. Chairman, may I do one follow-up?

ASSEMBLYMAN WISNIEWSKI: One brief, and then Assemblyman Stack.

ASSEMBLYMAN BURZICHELLI: It will be very brief.

Are there any different rules-- Through the Chair, are there any different rules related to -- say the industrial park owner -- if that person wanted to buy a bus to bring people to their industrial park? Are they treated differently than I would be treated if I were going to go for omnibus plates? Are there different rules for them?

MS. KLEINBERG: By us, no. By the Department of Labor-- Some of these companies are getting a very, very nasty shock, because if they -- whatever they pay for a -- for transportation-- What they do is they deduct it

from the salary. They're not doing it out of the goodness of their hearts. They deduct it from the salary of the employee. Anything you deduct from the salary of the employee has to go to a legal operator. And many of these operators of factories, operators of staffing companies are getting very nasty shocks when they find that that's being considered as part of their net profit, because they did not pay it to a legal operator.

ASSEMBLYMAN BURZICHELLI: Mr. Chairman, that's going to be my last question. But if I could ask you to keep that issue in your thoughts, because now it seems like we have a third level of potential operators of transportation into these locations that are under even different rules -- not required to have the omnibus tags. And maybe you'll hold that thought and explore that at some point.

MS. KLEINBERG: They are required to have the omnibus tags. If they're carrying passengers for hire, either directly for hire or indirectly for hire, they've got to be legal operators.

ASSEMBLYMAN BURZICHELLI: I wasn't clear.

But the authority for the route is not required.

MS. KLEINBERG: Oh, no that's required.

ASSEMBLYMAN BURZICHELLI: That's also required.

MS. KLEINBERG: They can't compete with-- They can't undercut a private operator without permission.

ASSEMBLYMAN BURZICHELLI: Then I was confused in the initial response. But you'll sort it out later.

ASSEMBLYMAN WISNIEWSKI: No, but I think you raised a very valid point.

Assemblyman Stack.

ASSEMBLYMAN STACK: You mentioned about translating a letter to Spanish. Is anything sent out, right now, where it's sent out in bilingual, English and Spanish, to these?

MS. KLEINBERG: Not that I know.

ASSEMBLYMAN STACK: Why would that be such a delay? Considering that most of these owner-operators are Hispanic and Spanish speaking, why hasn't that been done already? Why is that taking so long?

MS. KLEINBERG: Well, the letter that we've sent out has only been recently redrafted to reflect newer regulations. So it actually hasn't taken that long. It's in the process now.

ASSEMBLYMAN STACK: Just so I understand this, somebody from the State is usually present on these roadside stops? If Union City calls-- I've seen them in Union City before. They bring the truck out. If I make a roadside stop, and I call the State DOT, and I'm with Union City Police, is somebody from the State present when these roadside stops, sometimes, are taken -- whereby Union City Police goes and makes these different stops? Is somebody from the State present, from DMV or from DOT?

MS. KLEINBERG: I think they always are. Are they not?

MR. SPINELLI: Yes, they always are.

ASSEMBLYMAN STACK: And nothing is handed out in Spanish -- in English and Spanish -- to the operators of these vans just to explain to them what's going on, to help them?

MR. SCHULZE: The package we have now is only in English.

ASSEMBLYMAN STACK: That's not acceptable. In this day and age, that's unacceptable in this state.

Number two, do you have a list of the routes in Hudson County? If I said to you I wanted to see the different routes that are approved to different owner-operators, would I be able to see that?

MS. KLEINBERG: I could generate it. I don't have it with me, and I couldn't get it within-- I can't just press a button and get it, but I could generate it.

ASSEMBLYMAN STACK: Okay.

And just one last question I have-- Is Union City Police, and the city of Union City-- I mean, I've been there four years. I've never received any notification of approved routes in Union City by any owner-operators. How does the municipality know what you're approving and not approving?

MS. KLEINBERG: Well, the operator has to demonstrate to us-- The municipality-- The operator has to notify, by certified -- notify the municipality by certified mail and give us the green card. We can tell from the receipt whether they've sent the entire petition or whether they've just sent a notice.

ASSEMBLYMAN STACK: And that's sent to the police department?

MS. KLEINBERG: No, it's sent to the municipal clerk.

ASSEMBLYMAN STACK: And does the State do any notification to the municipality telling them it's been approved so far?

MS. KLEINBERG: No.

ASSEMBLYMAN STACK: Well then, how do you expect the local police to help out with enforcement if that's not being done?

MS. KLEINBERG: I think that the theory was that the municipal clerk would determine who in the municipality needed to be notified.

ASSEMBLYMAN STACK: Well then, how do we ultimately know-- How does the chief of police in Union City ultimately know if they were approved or not?

MS. KLEINBERG: Well, you wouldn't ultimately know if they were approved unless you notified us and asked us to tell you. That's a simple regulatory change, if that's the case.

ASSEMBLYMAN WISNIEWSKI: That's backwards though. That's backwards.

ASSEMBLYMAN STACK: That's problem number--

ASSEMBLYMAN WISNIEWSKI: If there's an approved route, I believe it would be incumbent upon the State to call the mayor, or the city clerk, or the police chief and say, "Here are the approved routes." Otherwise, they're left to guess. They've got a green card, or they've got the notification that somebody's applied -- they have no idea whether that was ever approved.

ASSEMBLYMAN STACK: Mr. Chairman, if I may, before we crack down on the van operators, I think, first, the State should really get our house in order first on how we're going to notify municipalities. But, more important than anything -- and I'm appalled at this -- I mean, representing the Hispanic population I represent -- that they're not notified in bilingual, in English and Spanish. That's unacceptable. Everything that leaves the State of New Jersey should be going out that way.

MS. KLEINBERG: These are things that can be done through regulatory changes, very simply. And if that's the consensus, we'll do that.

ASSEMBLYMAN WISNIEWSKI: Well, the bilingual doesn't have to be done through regulatory change.

MS. KLEINBERG: No, that we'll just do. As far as the notification is concerned, we can do that regulatorily. And that's a very simple matter.

ASSEMBLYMAN WISNIEWSKI: I would urge you to get a bilingual notice out next week, if you can.

MS. KLEINBERG: It's pretty long.

ASSEMBLYMAN WISNIEWSKI: Any other questions for--
Do you have anything further that we haven't covered?

MR. SPINELLI: The only thing I had left, other than the stats, were, of course, the pictures we've all seen last summer.

ASSEMBLYMAN WISNIEWSKI: Where was that?

MR. SPINELLI: That was on the New Jersey Turnpike.

ASSEMBLYMAN WISNIEWSKI: What part?

MR. SPINELLI: In South Brunswick.

ASSEMBLYMAN WISNIEWSKI: South Brunswick.

And do we know what the cause of the crash was? Was it mechanical failure?

MR. SPINELLI: It was an overloaded vehicle. And what it had to do was, it had to stop from hitting another vehicle, which it ultimately did hit, which was that vehicle right there. And there's a vehicle that had absolutely nothing to do with the business that was going on. But, yet, he

wound up being the (indiscernible). Luckily, he was out of the vehicle at the time.

ASSEMBLYMAN WISNIEWSKI: Assemblywoman Stender, last question.

ASSEMBLYWOMAN STENDER: Yes, thank you, Mr. Chairman. Going back to-- You talked about the paratransit thing. I was, kind of-- It caught me that you said that they were exempt from your inspections. So my question is, then, who does inspect them?

MR. SCHULZE: They're inspected-- They can go to a private inspection center or, I believe, through the inspection lanes.

ASSEMBLYWOMAN STENDER: So, they are required to be--

MR. SCHULZE: They are inspected, yes.

ASSEMBLYWOMAN STENDER: Thank you. I didn't get that part. I was--

MR. SCHULZE: But not an enhanced inspection like we do. Our inspection is much more thorough.

ASSEMBLYWOMAN STENDER: Okay. Thank you.

ASSEMBLYMAN WISNIEWSKI: Thank you very much for the presentation and the testimony. I think we've learned a lot. I think there's a vast amount that needs to be done. There seems to be conflicting or inconsistent regulation. I think we need to follow up. I know that Assemblyman O'Toole, Assemblyman Prieto, and Assemblyman Stack had all said we need to get the bilingual notifications done yesterday. If education is an important part of the enforcement, we need to get that out.

And I appreciate your testimony.

Thank you.

MR. SCHULZE: Thank you.

ASSEMBLYMAN WISNIEWSKI: Next, I'd like to-- I think this is a group, so if I'm wrong--

Richard Cunningham, New Labor. And with his slip, I see Francisco Valentin, José Victoriano, Alejandro De La Paz, and Mario Medina. If you would all please come up.

Get one more chair.

I think, if you could just make room for the translator to use a microphone--

Mr. Cunningham, why don't you start off.

RICHARD CUNNINGHAM: Right.

If we can, I'll start off and then give everybody an opportunity.

ASSEMBLYMAN WISNIEWSKI: Absolutely.

MR. CUNNINGHAM: Good morning.

My name is Richard Cunningham, and I'm the Director of New Labor, a nonprofit, community-based organization that works primarily with Latino immigrant workers in New Brunswick, New Jersey.

We work with them to improve their skills and to help them protect themselves at work. We provide English as a Second Language classes, computer classes, occupational safety and health classes, as well as other topical workshops -- tenants' rights, things along those lines. We began in 2000, and, since then, have become kind of a fixture in New Brunswick.

I think, to start off, I'd like to thank the Committee for taking the time and the effort to shine a stronger light on an issue that concerns many

people, but concerns a lot of people that aren't thinking about this as it affects them.

I also applaud your commitment to community participation by holding this meeting in a location where those immediately affected will be able to have a voice in this discussion.

The safety of worker transportation service providers, the van services that we are talking about today, has been an issue in New Brunswick for longer than the five years that we've been around. Every day in New Brunswick, hundreds of workers make their way to temporary employment agencies. As they receive their work assignments, they're directed, in most cases by the employees of the agencies, to the vans that they should board, and the driver is told where he or she will be driving the person for that day.

For years, we have listened to stories of overcrowding on the vans, vans that left workers stranded when they never showed up to pick them up from work; the widespread lack of seat belts; people forced to sit on wheel hubs or upside down milk crates, as 15-person vans were outfitted to try to squeeze 18, to 20, to 21 workers at a time. On a daily basis, people are herded onto these vans so they can go to work to earn, in most cases, a dollar or so more than the minimum wage.

The van services generally cost about \$5 to \$7 per day, round trip. The charges are deducted, usually, from their paychecks by the employment agencies. The problems of the van services have lead the more responsible employment agencies to purchase and operate their own van services because of these safety violations.

And let me be very clear before we get into the, kind of, dirt. This is not a problem that should be painted with a broad brush. There are people who are trying to obey the law. There are van drivers who operate safely. There are employment agencies that utilize responsible van services. But make no mistake, as the DMV's presentation pointed out, there are a large number of people operating illegal services, and they are violating the law. And this is a direct result of the high competition between the agencies and between the van service providers. There is a growing disregard for the personal safety of people.

These two important services are a vital part of the economic growth of central New Jersey. The van services are important to the agencies that utilize them. The agencies play an important part at the warehouses and distribution centers at Exit 8A, as well as Raritan Center and the Jersey Avenue Corridor in New Brunswick. There are few, if meaningful, alternatives to the van services that exist. So refusal to ride is a refusal to work. And you should keep that in mind.

Most mass transportation lines bring workers into New Brunswick, but they don't bring workers out. They don't bring them to the corridors with the employment growth. While few workers earn enough money to afford a vehicle, to cover the high cost of insurance here in New Jersey, these van services are an important and affordable means for low-wage workers in New Jersey to get to and from work, and for agencies and the companies to transport workers from a place where there is a supply to where the demand is. Without efforts to create viable transportation options for workers, workers have few choices as to where to work and whether to be safe or not.

I hope that this shows where the demand for these services are coming from. And leading up to today, New Labor had a number of town-hall style meetings for participants from our programs to talk about the conditions. That's who's here today.

So I will let them really deal, first hand, with what they've seen. But I hope from the picture that I've pointed -- that I've painted, you can see the relationship between the different parties involved. And as such, they both share in the responsibility for workers getting to and from work safely.

For the most part, van drivers are the ones who are responsible for the conditions of the vans, whether or not they're there. But the truth is, ultimately the company or the agency that contracts them shares in that responsibility because they direct the workers onto the van, decides how many people get on the van, ultimately determines if they feel the van is compliant or not. I was shocked to learn that it was easy enough to just look and see if they had omnibus tags. I didn't know that.

Workers cannot refuse to get on a van they feel is unsafe, because, again, it is the difference between working and not working. In fact, many people will rush to get on first, just so they don't have to sit on the milk crates or the wheel wells.

While the transportation is arranged by the agency or the company, they are paid by the company on the workers' behalf. The van service provider is chosen by the company. And the agency is the one who tells you which vans you have. In addition, they have waivers that say that they have no responsibility, that this is just something that they've done on your behalf.

ASSEMBLYMAN WISNIEWSKI: Wait a minute. They make them sign waivers?

MR. CUNNINGHAM: Yes. We've seen examples of waivers at the end of the employment application, when it relates to utilizing the van services. It says, "We are using this third-party van provider to transport you. We are arranging it, but we are not -- we have no association with them."

ASSEMBLYMAN WISNIEWSKI: Do they know what they're signing?

MR. CUNNINGHAM: No. Actually, that part is in English. But I've seen it in Spanish, as well.

ASSEMBLYMAN WISNIEWSKI: But as you said, they don't really have much choice, because if they refuse to sign, they refuse to work.

MR. CUNNINGHAM: As some of the people here will tell you, refusing to sign or refusing to utilize the van services is a refusal to work.

Out of the fear of liability issues, many agencies ask them to sign these things. And this goes to the *Home News* series that, I think, has shown a great deal about this issue. But it kind of misses one part when it comes to the California project that everybody seems to favor.

In August, 1999, for those of you who don't know, 13 farm workers died when a van in which they were riding crashed into a tomato truck. The legislature responded by creating the education program. But in addition to that, the survivors of the August 1999 crash, and the families of those who died, filed claims under Workers' Compensation. And in March 2002, the Workers' Compensation appeals board reversed the initial ruling that had denied the Workers' Compensation claim, and held that they were

responsible, and then awarded more than \$3 million of Workers' Compensation benefits to those workers' families. The appeals board ruled that both the farm labor contractor and the farm where they were employed, were working -- or where they were working were reliable, because the workers were required to use the van services. Even though the company said they had no control, they really did. And through an investigation that came out -- but it wasn't initially aware.

So I'm here to implore the Committee to pursue a similar strategy to address the problem. As -- I believe it was Assemblyman O'Toole -- this is a widespread issue. This is a labor issue, this is a transportation issue, this is not something that necessarily can be solved with just regulatory changes. Clearly, increased fines, mandatory safety precautions, traffic stops, seat belts, all those things are great. But if the van were seen as a work place, and OSHA was the one conducting the investigation, their initial question would be, "Who had control of the number of people who were on there?" And so we should look at that as, kind of, a model, in terms of determining these things.

So I encourage you to work with your colleagues on the Labor Committee to craft legislation that expands the responsibility and the liability in the event of an accident, that allows workers to pursue these Workers' Compensation claims.

Education is important, and, I think, in the case of California it's shown right. I think the number of fatalities since that program was instituted is down to next to nothing, if any. And we should pursue that, as well. It's been effective. But without the fear of exposures to liabilities and fines, and without an incentive that would force everyone to think about safety first, to

think twice about directing people onto a van that is unsafe, or overcrowding a van with more seat belts than people (*sic*), the conditions ultimately will not change, and illegal operators will operate illegally.

So anything-- When we think about solutions to this problem, we need to think about who really can affect the change, who can create the change. These vans, when operated unsafely, are not just a threat to the workers in the van, but to all the workers on the highways traveling to and from their jobs every day. Health and safety really is a life or death issue.

I understand that you're facing a budget shortfall. But our priority has to be about human lives. And I don't want to regret not acting when we had the chance to do something, today, to start the ball rolling.

I will stop now and allow people to speak about the different experiences that they've had.

ASSEMBLYMAN WISNIEWSKI: If you could introduce them in whatever order you think appropriate.

MR. CUNNINGHAM: We'll just go right in the order.

ASSEMBLYMAN WISNIEWSKI: They're going to need to move up close to the microphone.

MARIO A. MEDINA: (witness speaks in Spanish)

JUDITH E. GRASBERG: (translates to English) Thank you very much for giving us the opportunity to be able to speak, since it's very difficult to be able to find these kinds of opportunities.

The people from the department of Motor Vehicles have been very explicit in what they've presented. The question for us is, you're aware of the problem, but what are you really doing now to solve the problem? Because we

only make the news when there's an accident, and there are deaths and injuries. And that's when you remember that we're here. And we really could have avoided those accidents if someone had done their job correctly. And the accidents show that somebody is not doing their job correctly. Because when the transportation vans are stopped on the highways, and the worker is made to miss a day of work -- where they're only earning \$5- or \$6-an-hour salaries -- we don't get paid our salary. But the transportation companies do charge their fares for having taken us to work that day. And that's a problem for us.

So there's the problem. And somebody's not doing their job. And we're always the ones who take the blame for everything.

ASSEMBLYMAN WISNIEWSKI: Just one question. When you are going to work, and your van is pulled over-- You're saying that you don't get paid for work that day, but you still have to pay for the transportation?

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Absolutely.

Because their responsibility is to take us to work and bring us back from work. And what happens on the way to our job is our responsibility, not theirs. And the agency always charges us that money. So somebody's not doing their job.

ASSEMBLYMAN WISNIEWSKI: How do they charge you the money? Is it a deduction from your paycheck?

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) They automatically deduct it from our salary without investigating the number of hours we've worked that day, whether it's time that we missed or we just didn't get there.

ASSEMBLYMAN WISNIEWSKI: Wow. That's wrong.

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) And that's part of what's going on.

ASSEMBLYMAN WISNIEWSKI: Just before-- We have a question by Assemblywoman Stender.

But just for our record, could we have your name?

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Mario Alberto Medina. I'm from Honduras.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Assemblywoman Stender.

ASSEMBLYWOMAN STENDER: Thank you, Mr. Chairman.

When you get charged for transportation, is that through so called *legal agencies*, or is that through -- only through the illegal? Do we know?

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Well, the truth is, we only go to employment agencies because we need to work. And the legality or illegality of the job -- we're not aware of that.

What we do know is that there is always a relationship between the transportation and the agency. And sometimes the agencies and the people that do the transportation are partners. And that happens every day.

In addition, there are many of us who have been able to maintain -- to obtain legal status in this country. And we have the benefit of a license. But unfortunately, as some agencies -- in spite of the fact that we have our

transportation -- we are forced to use the agency transportation, even if we have our own transportation. Because if we say that we have our own transportation, they either don't pay any attention to us, or they just give us the jobs that pay \$5 and not any opportunities to earn a better salary. And in my country, the same as in this wonderful country, that's blackmail.

ASSEMBLYMAN WISNIEWSKI: Absolutely.

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) And we can't allow that. And we've been putting up with that for our whole lives.

And just like there, there are thousands of problems where there's transportation companies that don't have any heat. When it snows, or when there's ice, and it starts to melt, inside the van we have to be putting up with the water dripping in without having the right to be able to say anything about it, because we run the risk that they won't give us work. And that's a part of another type of blackmail, because we need to work and help our families to get ahead in this country.

It's also important, right now, to say that there are also transportation agencies that do live up to the requirements. But I have a lot of fingers on this hand -- I can count them on one hand, tell you how many there are. But they do exist.

ASSEMBLYMAN WISNIEWSKI: Excuse me, Mr. Medina.

ASSEMBLYMAN PRIETO: It seems, by hearing this testimony, that this is a two-part problem, not just with the illegal vans that are running, but also the employment agencies that actually force them -- that don't allow them to use their own vehicles. So it's a two-part problem we have here. This

is almost nothing to do with the vans, indirectly. It's more like a monopoly that they're having on these workers.

ASSEMBLYMAN WISNIEWSKI: I can't believe this is something that's happening in this country. I think, as Assemblyman O'Toole mentioned, this is not just a Department of Transportation issue, this is a Department of Labor issue, this is an enforcement issue, this is a Department of Banking and Insurance issue. This is an issue that has many facets. And I can't believe that people in this country are forced to take horrible transportation in order to get a job when they have their own -- as this gentleman said -- when they have their own means of getting there.

ASSEMBLYMAN PRIETO: One of the issues, as Mayor Assemblyman Stack had said, from Union City -- it's a different issue, when I was made aware of transportation that -- we know that it's unsafe, how they drive with no insurance. But this is another whole realm of how, basically, they're being forced to use these types of transportation.

ASSEMBLYMAN WISNIEWSKI: Thank you, Assemblyman.

ASSEMBLYMAN BIONDI: Chairman.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Biondi.

ASSEMBLYMAN BIONDI: Thank you.

Through the Chair, are the vehicles they're using to transport you to the job -- are they unsafe, are they licensed correctly with the omnibus plates?

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) The truth is, they give them all permits, but unfortunately, the people who check the vans are not doing their jobs.

ASSEMBLYMAN BIONDI: So you're saying they are unsafe and not licensed correctly?

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) The truth is, I can't answer that, because that's out of our sphere of knowledge.

ASSEMBLYMAN BIONDI: Another question.

ASSEMBLYMAN WISNIEWSKI: Yes, Assemblyman.

ASSEMBLYMAN BIONDI: When you get picked up, do you have to get to the employment agency and depart from there to where you're working? Or is it a different location, different stops they're picking you up from?

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) For the most part, at most of the agencies, it's mandatory to go to the agency, whether it's raining or snowing, or whether there's fire raining from the sky, because if not, you don't go to work.

ASSEMBLYMAN BIONDI: You provide your own transportation -- whatever means -- to get to the agency, and then are transported from the agency to where you're going to be employed for the day. Is that correct?

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Correct.

ASSEMBLYMAN BIONDI: Thank you.

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) It's important, based on what your colleague said--

There are two problems, but they're related. And we can't close one eye to see the other problem, because they go together, because they cause harm together, because they put our lives in danger together, and where they abuse us together. And if you earn \$5.15 an hour, and you have to pay \$25 to \$37 a week for transportation, you at least have to have safety and respect.

ASSEMBLYMAN PRIETO: Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: Yes, Assemblyman.

ASSEMBLYMAN PRIETO: In reference to that -- and he's exactly right -- in reference to being two part -- the first part being-- The agency basically could avoid them going on unsafe vehicles and all that. So he is correct that that's the big part of the problem, that that one portion can almost take care of the other one. They do go hand-in-hand. So he's correct in that.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Assemblyman Burzichelli.

ASSEMBLYMAN BURZICHELLI: Mr. Chairman, through you, may I first thank this gentleman for coming today to testify and helping us better understand this level and complication of issues. We thank you.

May I say to the Chair that-- Maybe, Chairman, you should alert our counterparts at the Committee on Labor -- Assemblyman Egan -- that maybe it's time that these employment agencies, and these referral agencies-- Maybe the Committee should take a look at that. I've had concerns for some

time growing of how they now are controlling that small world. And we're getting a sense here that they're reaching very deep.

It's certainly not the purview of the Transportation Committee, but I think this testimony today tells us there's something taking place. It's a labor issue, it's a consumer issue.

ASSEMBLYMAN WISNIEWSKI: And it's--

Assemblyman, you're right. And it's also a health issue.

I know that Senator Vitale, who chairs the Senate Health Committee -- and his aide is here today. Senator Vitale has been concerned about the consequences of these vans, and how they're operated, and unfortunately what happens when there's accidents or there's bad maintenance. So this touches so many different facets of State government. This is really a larger problem than I anticipated coming here this morning. And it's something that I'm very glad that Mr. Medina, Mr. Cunningham, and everybody else has been here to testify on.

ASSEMBLYMAN BURZICHELLI: And if I may finish with my thought.

ASSEMBLYMAN WISNIEWSKI: Absolutely, Assemblyman.

ASSEMBLYMAN BURZICHELLI: I want to say that we're not going -- because this gentleman said someone's not doing their job. Today's process is an important step. And I assure you that those who are serving in the Legislature have no intention of seeing New Jersey slip back to the days of the company store, where workers are essentially held hostage for the benefit of the employer. We respect the employers. They create jobs. We expect people to be treated fairly and paid fairly, which is a whole other discussion.

But your testimony today does not fall on deaf ears. They're important words. Our Chairman will direct this information today to other Committees. And we're going to try and be helpful, because we're not going to have company stores. All that's missing here is they're not giving you a place to buy your groceries at, where they can charge those prices.

They're underpaying you, they're charging you for transportation, essentially holding you hostage. Because of language barriers, you're in the position to be as independent as you will be, very shortly. As you continue to make your way, we have to be helpful. And I know the Chairman will direct this information accordingly.

ASSEMBLYMAN WISNIEWSKI: Thank you, Assemblyman.

ASSEMBLYMAN BURZICHELLI: We will help.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Mr. Medina, do you have any final words?

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Just to thank you for your time. And we hope that you continue to give us time so that the more you listen to us, the more you can find out what's going on out on the street. Because, ladies and gentlemen, the transportation agencies for workers play with human lives, and that's a shame.

Thank you very much for your time.

ASSEMBLYMAN WISNIEWSKI: Thank you, Mr. Medina. I can assure you that, based on the work of this Committee and the other Committees -- and I know, with my colleagues in the Legislature -- we are definitely going to change the way they operate.

MR. MEDINA: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Thank you.

ASSEMBLYMAN WISNIEWSKI: I think you next have
Alejandro La Paz.

José Victoriano.

Please, sir.

JOSÉ VICTORIANO: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English)
Thank you for this opportunity.

My coworkers were glad that we had this opportunity to speak with you, because-- Well, unfortunately, all would have liked to have been here; they didn't all have the opportunity.

What my coworker said is being lived out daily. The agencies do not respect us. In the morning they have to wait until there are no police around to transport us to our jobs. And that means that they're working illegally with us. When they take us to a job, sometimes we get there a half-hour or hour early, and we have to wait out in the cold, because the companies open at a certain time. They leave us outside, and they don't care about it being cold. In the afternoon, it's the same when they go to pick us up.

Sometimes they see that there's a policeman up ahead, and then they'll leave the route. And when they're on the road, they'll go at a maximum speed so as to get there early.

Sometimes, in the van, they'll put up to 22 people so as not to have to go back twice to take them or pick them up.

We need your help. We don't want there to have to be an accident in which 10 or 15 people are killed. It's happened in the state of California. A friend of mine had to die in an accident, because the van was not legal. And we don't want that to happen here.

ASSEMBLYMAN WISNIEWSKI: Thank you very much for your testimony. I'm sorry to hear about your friend.

The purpose of having you and your colleagues here is to educate us. We've learned, today, things that aren't right. And I think I speak for most of my colleagues up here that, quite frankly, we're shocked. And your testimony is not falling on deaf ears.

MR. VICTORIANO: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English)

Thank you, and I hope you can help us.

ASSEMBLYMAN WISNIEWSKI: Thank you.

ASSEMBLYMAN BIONDI: Chairman.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Biondi.

ASSEMBLYMAN BIONDI: Just a question please.

This agency that we keep referring to -- the employment agency. Is this is a licensed or registered agency, legitimate agency, that is doing these terrible things that I'm hearing about -- putting 22 persons into a van -- unsafe van? Is the agency licensed or registered in the State of New Jersey? Is it a legal operation -- the agency?

MR. VICTORIANO: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English)

Unfortunately, we go looking for work without asking the question.

ASSEMBLYMAN BIONDI: Do you know the name of the agency?

MR. CUNNINGHAM: If I could just step in for one second.

ASSEMBLYMAN BIONDI: Sure.

MR. CUNNINGHAM: The agencies in New Jersey are regulated by the Department of Consumer Affairs, as opposed to other states, where they're registered with the Department of Labor. And for the most part, they were registered with the Department of Consumer Affairs in the list that they provided.

ASSEMBLYMAN BIONDI: They are registered with DCA.

MR. CUNNINGHAM: Yes.

ASSEMBLYMAN BIONDI: Chairman, maybe--

ASSEMBLYMAN WISNIEWSKI: So that's another agency now.

ASSEMBLYMAN BIONDI: Yes.

ASSEMBLYMAN WISNIEWSKI: We've got the Department of Labor, DCA, Department of Transportation, the Department of Health, and nobody's doing their job.

Thank you, sir. Thank you for your testimony.

Whoever's next.

Francisco Valentin.

MR. CUNNINGHAM: Just for the record, that was José Victoriano.

ASSEMBLYMAN WISNIEWSKI: Next is Francisco Valentin.

FRANCISCO VALENTIN: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) My name is Francisco Valentin, V-A-L-E-N-T-I-N. I am from Mexico.

First off, I'd like to thank you for giving us this opportunity.

I think that my friends and coworkers have already expressed a lot of the problems that are going on. And a lot of the times, the transportation we get from the agencies-- As the gentleman said, for \$35-- And sometimes, they leave us off at work, and we wait for two to three hours. And we have to pay.

ASSEMBLYMAN WISNIEWSKI: Where do you wait for two to three hours?

MR. VALENTIN: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) Outside of the company where we work. A lot of times, they won't let us wait inside.

We have to pay, and sometimes they don't pick us up. And they charge us. And we have to walk or to pay a taxi. A lot of times we don't have access to a taxi, and we have to walk.

ASSEMBLYMAN WISNIEWSKI: Thank you.

MR. VALENTIN: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) And unfortunately, many of us don't have the information about where to go for help.

Thank the Lord we have the help of New Labor. They give us a lot of information, and many of our people have none of this. They listen to

us. And they and we are trying to solve the problems. And we hope that you also can help us.

ASSEMBLYMAN WISNIEWSKI: That's why we're here.

MR. VALENTIN: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) Thank you.

ASSEMBLYMAN WISNIEWSKI: Anyone have questions? (no response)

MR. CUNNINGHAM: Last one.

ASSEMBLYMAN WISNIEWSKI: And this is?

MR. CUNNINGHAM: This is José Solano. He's not in the group that I gave you. He came in afterwards.

ASSEMBLYMAN WISNIEWSKI: He came in afterwards.

Sorry, your name, sir?

JOSÉ SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) José Solano.

ASSEMBLYMAN WISNIEWSKI: Okay, José.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) First of all, I'd like to thank and say hello to all the Assembly members who are here today. Thank you for coming and listening to us.

I'm going to tell you that everything that my colleagues have said is all very true. But the consequences that are occurring are because the authorities are not doing their jobs right, the way one of my colleagues already said.

I was a van driver in 1997. I started the first company in the city of New Brunswick with the goal of avoiding the problems that are occurring today. In the city of New Brunswick, there are two transportation lines. One is through the agencies, and the other one is the one that works with the town. And that's the road I followed. I used to take people from home to work and work to home.

What happened, we had the company set up all legally and registered with the city of Trenton. The authority -- the DOT -- started attacking us, even though we were there legally. One time I went through inspection that day, and they stopped me the next day. They really squeezed us. They attacked us a lot. The insurance went up \$7,000 -- \$6,000 for only one van. We pay it, because we want to work legally and serve workers as they deserve. But that's over with, because we were attacked, and we had to die out.

That's why I'm asking all of you to look at the problem. If we're going to work legally, we shouldn't allow vans that don't have insurance, drivers who don't have their licenses. It's a problem, because there's an accident, and then there's no one to respond for it.

What we want is, from here on, if you're going to support us, that that's respected, because the people are the ones who need it. The worker needs to get to work on time, right? And it's true that some colleagues that are not from our line, like my colleagues said, get there and drop people off. They don't take their time getting them to the job site. Why? Because they want to make another trip.

That's not right. As far as I'm concerned, that's not right because the worker pays and has the right to have the driver treat them well.

That would be what I'd like to tell you. The DOT treated us very badly. The DOT attacked us, and they let the companies with no insurance and illegal vans go.

To all of you, the members of the Assembly, we hope that you take everything we've said here into account. It's up to you and to us to help the working people, because they're working for the welfare of this country. And the laws need to be respected.

Thank you very much.

ASSEMBLYMAN WISNIEWSKI: Thank you very much for taking the time to be here to testify before this Committee.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Thank you very much.

ASSEMBLYMAN WISNIEWSKI: I'm sure that you wound up missing a day's pay.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Thank you very much.

ASSEMBLYMAN WISNIEWSKI: Does any member of the Committee have any questions?

ASSEMBLYWOMAN STENDER: I just have--

ASSEMBLYMAN WISNIEWSKI: Assemblywoman Stender.

ASSEMBLYWOMAN STENDER: Thank you, Mr. Chairman.

You said the DOT basically drove you out of business. What did they say were your violations? What were the issues that they had with you when you had done everything legally?

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Because they would stop us, the ones who were working legally. And they would let the vans -- the minivans that were working illegally get away with it. And they're the ones who took work away from us. And we pay very high insurance. It seems like it's going to go up to \$9,000 for one van. And we can't afford that. It's very high. And that's the reason.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Anyone else? (no response)

Thank you for your testimony.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Thank you.

ASSEMBLYMAN WISNIEWSKI: We'd like our translators to hang out for a little bit. I'm sure we're going to need you again.

I'd next like to call Sergeant Michael Kushwarra and Sergeant Kevin Murtagh, from the South Plainfield Police Department and the South Brunswick Township Police Department.

Gentlemen, thank you.

Gentlemen, please begin.

S E R G E A N T M I C H A E L E. K U S H W A R R A: Good morning.

We became involved with the issue of commuter vans--

ASSEMBLYMAN WISNIEWSKI: If you could just identify yourself for the recording.

SERGEANT KUSHWARRA: I'm sorry. Sergeant Michael Kushwarra, South Brunswick Township Police Department.

We became involved with the issue of commuter vans in 1996. We had basically suffered a number of incidents within our community involving them. I did bring some photos of an accident for you to review, if I may approach the bench.

This accident was actually the precursor of us getting involved with the DOT. In this particular accident, 22 people sustained injuries. Neither vehicle was registered properly. Neither driver was even licensed properly to operate these vehicles. The insurance for these vehicles was done on a passenger rate, so it was at the bare minimum, barely enough to cover injuries sustained in this collision. The driver involved in the collision was charged criminally, in addition with motor vehicle charges, served time in jail, and is back in the business today of operating illegally.

Over the years, we've operated a number of checkpoints, in unison with surrounding communities. Monroe Township, Cranbury Township, for us at the southern end of Middlesex County -- we're still basically very rural in nature. So there's not a lot of public transportation in those areas. But it covers almost a 50- or 60-square-mile area of three municipalities. As such, we're very cognizant that some of the folks taking this transportation have no other choice. We certainly are not out to inconvenience them, nor the employers, in this particular situation. We simply want to make these vehicles safer.

ASSEMBLYMAN WISNIEWSKI: Sergeant.

SERGEANT KEVIN J. MURTAGH: Sergeant Kevin Murtagh. I'm with the South Plainfield Police Department.

I'd, first, like to thank the ladies and gentlemen in front of us for giving us this opportunity to speak about this -- what I consider a tremendous problem.

We're a small town in Middlesex County, where we border an urban center of Plainfield. We jumped aboard, after following South Brunswick's lead, in 2001, and have seen this problem increase rather than decrease, despite our efforts. You folks need the wisdom of Solomon to resolve this problem.

The first thing I'd like to do is really congratulate and recognize Michelle Sahn, from the *Home News*. I think her articles have really spurred this along. If you folks haven't had the opportunity to take a look at that three-part series that was in the *Home News*, please do so. It's a very fair article that examines a lot of the issues.

As you can see though, from law enforcement-- There's a photo there of a minivan designed for seven people. When I stopped that van, it had 10 people in it. There's two passengers in the rear sitting on little child seats. What would be a normal parking lot accident, of five mile an hour impact, would have sent those two gentlemen to the hospital with serious injuries. This is the type of vans that are on the road daily.

ASSEMBLYMAN WISNIEWSKI: That's the same photo that was up on the slide presentation.

SERGEANT MURTAGH: Yes, sir, it is.

The photo on the bottom was an extended commuter van -- a 15-passenger van. As you can see, there's at least four gentlemen sitting behind the rear seat. There was 15 passengers, and four behind the rear seat. The very first van I ever stopped had 21 passengers in it: two sitting on a milk crate between the front seats; and in the rear, where there's a normal, four-passenger bench seat, the operator placed boat seats -- back-to-back boat seats. So he doubled the seating capacity in the rear.

ASSEMBLYMAN WISNIEWSKI: Boat seats?

SERGEANT MURTAGH: Boat seats.

ASSEMBLYMAN WISNIEWSKI: What are they?

SERGEANT MURTAGH: Like a normal-- I don't know if you're familiar with a boat. They're back-to-back seats, one facing forward, one facing back. So where the van was designed to have one seat with four seats facing forward, this configuration allowed eight people in the back.

ASSEMBLYMAN WISNIEWSKI: You both stop these vans, and you see the problems.

SERGEANT MURTAGH: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: So everything you've heard this morning rings true with what your experience is.

SERGEANT MURTAGH: Absolutely.

ASSEMBLYMAN WISNIEWSKI: Here's the tough question: How do we fix it?

SERGEANT MURTAGH: Well, traffic safety-- There's three E's in traffic safety: engineering -- which engineering doesn't play a whole lot in

this problem -- enforcement, which is where we come in; and education. We've been lacking in education to this point.

ASSEMBLYMAN WISNIEWSKI: Educating whom?

SERGEANT MURTAGH: Primarily the consumers who utilize these vans.

ASSEMBLYMAN WISNIEWSKI: But as you heard the gentlemen who testified -- all three of them said that they don't have a choice.

SERGEANT MURTAGH: Correct.

ASSEMBLYMAN WISNIEWSKI: So even if they're educated, their choice is work and take the dangerous van, or not work.

SERGEANT MURTAGH: Correct. And we see that every time we stop these folks.

We go out of our way -- if we encounter a van that's fully loaded with passengers-- It's my instruction to my officers that they're to follow that van to the company site, allow them to discharge those people so they can get a days work, and the van comes back to our inspection site. The only time that we'll discharge passengers immediately is if the van is in such poor shape it cannot travel any further.

ASSEMBLYMAN WISNIEWSKI: I know Assemblywoman Stender has a question.

I just wanted to ask one brief one. You see a van clearly overloaded, like the photographs that you have and that ran in the *Home News Tribune* story. You follow them to the work site. You let them discharge. Is there a way you can then impound that van so that, tomorrow, they're not back doing the same thing?

SERGEANT MURTAGH: Well, that's where you folks would come in.

ASSEMBLYMAN WISNIEWSKI: So the answer, right now, is probably not.

SERGEANT MURTAGH: There's certain loopholes that the van drivers or company owners are aware of. And they're jumping through those loopholes at this point.

SERGEANT KUSHWARRA: Assemblyman, if I may.

ASSEMBLYMAN WISNIEWSKI: Yes.

SERGEANT KUSHWARRA: There are specific statutes that enable us to impound vehicles and put holds on them. However, generally when we do that, there's criteria placed along it so that there's a conditional release. It's your personal property that we've seized. As such, if I impound a vehicle, it may be -- if it's for a safety reason or a vehicular defect, what will happen is, that conditional release will say, "Vehicle to be repaired or towed." Once the property is returned to the individual, we have no guarantee on whether or not those repairs are made. They could show up with a tow truck and remove the vehicle. There are cases in which registration or insurance is the issue. They simply show up with a new insurance card or registration, and we no longer have any legal grounds to hold it.

ASSEMBLYMAN WISNIEWSKI: So these are two loopholes, you're pointing out to us, that we may need to address.

SERGEANT MURTAGH: Assemblyman, if I may.

ASSEMBLYMAN WISNIEWSKI: Yes.

SERGEANT MURTAGH: Here's an example of a gentleman that we stopped. Actually, South Brunswick stopped him first, along with DOT, at a roadside inspection in April. Our last encounter with him was in September. And in those five months, the gentleman had this very same van registered four different ways: from passenger vehicle, to commuter vehicle -- commuter van -- back to passenger vehicle.

ASSEMBLYMAN WISNIEWSKI: Shouldn't this set off a red light at Motor Vehicles?

SERGEANT MURTAGH: I would hope it would.

ASSEMBLYMAN WISNIEWSKI: I know Assemblywoman Stender has a question.

ASSEMBLYWOMAN STENDER: Thank you.

When you stop one of these vans, who gets the-- I mean, what kind of a violation are you actually issuing? Somebody has got a van that is not registered correctly, and they've got excess numbers of people in the vehicle. What are violations they currently get?

SERGEANT KUSHWARA: There are a number of violations that exist under our current motor vehicle statutes. It can be anywhere from violations of registration, licensing laws under the CDL Act, to individual equipment violations for the vehicle itself. Something as little as a broken tail light is basically spelled out in motor vehicle law for us.

In addition to that, the DOT does have its power also, under its administrative code, to enforce certain acts that they may see. And I think they commented on that a little bit, because their penalties are far enhanced from what our motor vehicle code provides for. I mean, for me to tow an

unsafe vehicle in, for all intents and purposes, the individual is looking at a \$50 fine.

ASSEMBLYWOMAN STENDER: And when you issue the violations, that just goes to the driver. It doesn't have anything to do with the company that's authorizing it?

SERGEANT MURTAGH: It can be issued to both.

ASSEMBLYWOMAN STENDER: It can be issued to both?

SERGEANT KUSHWARRA: Yes.

ASSEMBLYWOMAN STENDER: So if it's issued to the company, they then have to appear in court? But you don't always-- I mean, how do you know? If somebody hands you a license, how do you know whether they're part of a company or an individual?

SERGEANT KUSHWARRA: If you look at the offset, for a corporation standpoint, on what they're generating in revenue, daily, by transporting passengers compared to what the risk is on getting stopped and getting a fine for \$50 or \$60, one far outweighs the other. I think that that's, a lot of the time, what we're looking at.

ASSEMBLYMAN WISNIEWSKI: They're willing to risk the fine.

SERGEANT KUSHWARRA: Yes. Corporations, generally, are required, when they come into municipal court, to be represented by counsel or a corporate officer, one or the other. And, generally, we find that. And I will tell you, for the most part, these summonses are not contested. And the DOT will back that up. They have shown up, on occasion, on different violations. But for the most part, these individuals do not want to go to trial,

they do not want to be up in front of a municipal court judge and explain their actions. They simply want to come in and pay.

ASSEMBLYMAN WISNIEWSKI: Is it a mandatory appearance?

SERGEANT KUSHWARRA: Some are and some aren't.

ASSEMBLYMAN WISNIEWSKI: Shouldn't they all be mandatory appearances?

SERGEANT KUSHWARRA: The problem that we run into is, again, under statutory issues. Obviously, an individual who's suspended or uninsured has a mandatory court appearance in front of the judge. An individual for faulty brakes does not.

ASSEMBLYMAN WISNIEWSKI: I'm saying though, if you see one of these vans with 14 people packed into one designed for seven, and it's operating for XYZ subsidiary of some temporary agency, there's a summons issued. Shouldn't they be required to show up in court, and hire that attorney, and ratchet up the cost for them to violate the law?

SERGEANT MURTAGH: I can only speak for our court. We make most of the violations mandatory. However, busier courts in Newark, or Irvington, or Elizabeth-- I'm not certain they're going to have the time to hear those types of matters.

ASSEMBLYMAN STACK: Mr. Chairman, if I may.

ASSEMBLYMAN WISNIEWSKI: Assemblyman.

ASSEMBLYMAN STACK: I just have a question. It's not illegal to have four registrations. And how come DMV doesn't pick that up? I mean, can anyone answer that for me?

SERGEANT MURTAGH: Just to use this as an example, the gentleman had a 1994 Dodge. It's registered as a wagon, according to DMV standards. It's designed by the manufacturer to carry 15 passengers. He has it registered as a passenger vehicle in April of 2004, with a seating capacity of eight people.

He's then stopped by the DOT and South Brunswick police. And his claim at the time was, he was not getting compensated and therefore not running a route for hire. He went and got the vehicle registered as a commuter van. By statute, a commuter van -- he does not collect fees for that.

That proved not to be the case. He was stopped again. He then reregistered the van back to the initial -- passenger of eight seating capacity. And we stop him again, and he flips it back to a commuter van.

He appears-- And we did spend some time with the gentleman. He appeared to try to get his vehicle out of impound. And in addition to the four registrations in his wallet, he presents me with a card that says he's in the transportation business. So he is getting compensated and running passengers for hire.

That's one of the loopholes.

ASSEMBLYWOMAN STENDER: What's the time frame when all of these registrations occurred?

SERGEANT MURTAGH: The initial violation was April 23, 2004. And when we encountered him, it was September 24, 2004, a five-month time frame and four different registrations on the vehicle. He's now had a fifth one. It's no longer registered as a commuter van.

ASSEMBLYWOMAN STENDER: And there's no existing statute that would cover the fraud of those actions?

SERGEANT MURTAGH: No, that goes back to what the lady from DOT was saying. Nobody from DMV is checking these. He's registering it as an eight-passenger van, when the thing is probably sitting out in the lot. And it was designed, from day one, to carry 15 passengers.

SERGEANT KUSHWARRA: It's not unusual for us to have a checkpoint and have a neighboring town pick up the vehicle the following day, or we pick it up the day after they've had theirs. It happens constantly. Kevin and I, basically, do communicate back and forth.

But in that window, there's too few municipalities that actually participate in actually looking at these.

ASSEMBLYWOMAN STENDER: If you could pick a tool, what would be the first thing that you would suggest to us, as a Committee, to do?

SERGEANT KUSHWARRA: I'm enforcement motivated, Assemblywoman. And although I believe education is a valid tool, I think, for the most part, most of the illegal operators have been educated. They've been educated by us on the numerous stops that we've made out there.

I mean, when I can show you DOT inspection sheets that show the same operators being stopped over, and over, and over again -- and then to compare those with the sheets that are provided in South Plainfield, and the same names and companies pop up-- They know the game. It's not a matter of educating them. They're well aware of what the requirements are. They've been told. Most of them have suffered the effects of not complying with them through the issuance of summonses.

SERGEANT MURTAGH: Just along the lines of education, if I may. The series from the *Home News* was reprinted in their Spanish publications. And it hit Somerset, Hunterdon, Union, Middlesex, and Monmouth counties. It's available to the Spanish population to maybe raise awareness. It's certainly saying that they shouldn't put up with this.

SERGEANT KUSHWARRA: I'll also say to you that in, I believe it was, 2000, our agency, as well as the DOT, met with a number of legitimate companies who were represented by legal counsel, at that time, and wanted to work with us because of just that competition edge that was mentioned earlier, as well. Frankly, it's lucrative to be illegal.

ASSEMBLYWOMAN STENDER: Thank you.

Thank you, Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Anyone else?

ASSEMBLYMAN BIONDI: Chairman.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Biondi.

ASSEMBLYMAN BIONDI: Thank you, Sergeants.

Question: Fifteen passengers, 18 passengers, 21 passengers. Do they have an omnibus plate? And if not, who is responsible for enforcing that? Locals that come under Title 39?

SERGEANT KUSHWARRA: The pictures that you have up in front of you-- Both those vans had passenger plates on them.

ASSEMBLYMAN BIONDI: Passenger, but not omnibus.

SERGEANT KUSHWARRA: Correct. Both were registered improperly.

ASSEMBLYMAN BIONDI: Who is the agency responsible for enforcing the lack of having the omnibus plate, which makes them doing an illegal activity? It doesn't fall under Title 39, right?

SERGEANT KUSHWARRA: It does.

ASSEMBLYMAN BIONDI: It does fall under Title 39.

SERGEANT KUSHWARRA: Yes.

ASSEMBLYMAN BIONDI: So each local P.D. could enforce it under the lack of the omnibus plate.

SERGEANT KUSHWARRA: Yes, under 39:3-19.

ASSEMBLYMAN BIONDI: Do we do that?

SERGEANT KUSHWARRA: We do it.

ASSEMBLYMAN BIONDI: You do. But you're not getting that same cooperation in other towns. Is that-- I don't want to-- I withdraw the question. (laughter)

SERGEANT MURTAGH: If I may address that, Assemblyman. Sergeant Kushwarra and his agency have expanded their efforts to Monroe, Cranbury, Plainsboro, I believe. We just started a joint effort with Piscataway Township. We border Plainfield. We'd certainly like to get Plainfield involved. There's some county jurisdictions that have to be overcome. We're seeing more fruitful efforts, on our part, from enforcement by bringing other agencies in -- other law enforcement agencies. It's not just South Plainfield, or Plainfield, or South Brunswick.

ASSEMBLYMAN BIONDI: If I may, through the Chair. What is the penalty for not having an omnibus plate?

SERGEANT KUSHWARRA: Thirty dollars.

ASSEMBLYMAN BIONDI: Thirty dollars.

SERGEANT MURTAGH: It's a minimum fine.

ASSEMBLYMAN BIONDI: So the pain does not outweigh the pleasure.

SERGEANT KUSHWARRA: Correct.

ASSEMBLYMAN BIONDI: So, therefore, there's another avenue to go to. Make it substantial, if not impoundment.

ASSEMBLYMAN WISNIEWSKI: Right. Clearly, the fines seem to be ridiculous.

ASSEMBLYMAN BIONDI: Thirty dollars -- they mail it in. That's not a mandatory appearance.

SERGEANT MURTAGH: That would be just for the registration.

However, what we are seeing -- and we have followed DOT's lead -- under Title 48, the owner-operators or the drivers can be-- It's a disorderly persons offense for operating without a route.

ASSEMBLYMAN WISNIEWSKI: How often does that happen?

SERGEANT MURTAGH: The last couple of times we've done our inspections, we've charged with disorderly persons offenses.

ASSEMBLYMAN WISNIEWSKI: What's the practical consequence of a person being charged with a disorderly persons offense?

SERGEANT MURTAGH: It's a criminal arrest. The fine starts, as they alluded to before, \$500 a day for the first seven days of operating without a route.

SERGEANT KUSHWARRA: Part of the other issue, Assemblyman, as Sergeant Murtagh basically mentioned earlier, was the

jurisdictional issues that come into play-- For us as municipal officers -- although we are empowered, under State statute, to enforce that title anywhere in the state, for the most part it's-- We're basically confined to our jurisdictional areas by either virtue of what's on the summons book, your codes that go on it, or similarly thereof.

So a lot of times, when we want to run these joint efforts, which so many agencies need to do, because of manpower constraints it can't be done.

ASSEMBLYMAN WISNIEWSKI: Is this an issue that is, more appropriately, in the hands of the State Police?

SERGEANT KUSHWARRA: I don't know if the State Police actually have the manpower to deal with it, to be honest with you. I know I've seen them on occasion.

ASSEMBLYMAN WISNIEWSKI: Well, in fairness, do municipal police departments have the manpower?

SERGEANT KUSHWARRA: I'll tell you that for me to run a detail effectively, it takes anywhere from 10 to 15 men to cover my specific areas. It really can strap a municipal agency. Luckily, with the participation of two other towns, our numbers pretty much come up to that. I'm sure Sergeant Murtagh is basically in the same boat.

SERGEANT MURTAGH: We'll refocus some of our efforts from other areas and divert those funds into overtime or additional funding for this, because we feel it is such a necessity.

ASSEMBLYMAN WISNIEWSKI: It's an important issue, no doubt.

SERGEANT MURTAGH: Absolutely.

ASSEMBLYMAN WISNIEWSKI: Any other questions for these officers?

Assemblywoman Stender.

ASSEMBLYWOMAN STENDER: Thank you.

Just back on the issue of the same operators over and over. So there's currently no way to really hurt repeat offenders.

SERGEANT KUSHWARRA: Again, Assemblywoman, the photos that you see in front of you -- that operator was charged criminally with the offense in 1996. He did jail time.

I have an inspection sheet here from 2004 with his name on it, in which he was cited again. The fact of the matter is, he's been to the DMV two or three times, changed his name around, dropped middle initials, and each time has been issued a different driver's license.

ASSEMBLYMAN WISNIEWSKI: These changes that you're talking about, have they happened before all of the reforms at Motor Vehicles or after?

SERGEANT KUSHWARRA: I believe some of them are after. The last one would have most certainly had to have been after.

ASSEMBLYMAN WISNIEWSKI: So even after some of these reforms, we're still seeing individuals coming in and serially registering and reregistering the same vehicle. And no one's really raising an eyebrow saying, "Gee, this is odd." Correct?

SERGEANT KUSHWARRA: That would be my take, Assemblyman.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Anyone else? (no response)

Officers -- Sergeants, thank you very much. You've been very helpful.

SERGEANT KUSHWARRA: Thank you.

SERGEANT MURTAGH: Thank you.

ASSEMBLYMAN WISNIEWSKI: I would next like to call up-- I'm going to call up four individuals. Grab some seats, and we'll just call you in order.

Frank Salado, Dominican Association of Perth Amboy. Is Frank still here?

UNIDENTIFIED SPEAKER FROM AUDIENCE: He left.

ASSEMBLYMAN WISNIEWSKI: He left.

Angel Avila, Safeforce Transportation. Come up and grab a seat, please.

Roberta Karpinecz, Keep Middlesex Moving; and Carole Miller, South Jersey Transportation Authority.

Carole, are you still here?

Roberta and Angel.

Angel, would you please go first?

A N G E L A V I L A: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) Good afternoon.

My name is Angel Avila, A-V-I-L-A. I live in the city of New Brunswick.

I agree with the Department of Transportation and police departments, and I believe that they are doing the right thing.

The problem that we--

ASSEMBLYMAN WISNIEWSKI: Can you just slow a little bit, so the translator--

MR. AVILA: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) I had a transportation company, Safeforce. When I had my transportation company, they did these stops -- the checkpoints. Sometimes we did have 15 or 16 people. They're correct. To be honest, I have to admit that. But I also have to admit that the police departments in South Brunswick and North Brunswick -- those are the policemen that abuse Latins.

Why? Once -- I was stopped -- they gave me seven tickets. One of those was that the light wasn't working. The other ticket was for not maintaining the lights, and I don't know if that's right or not. And many other tickets-- I don't know. If we legal transportation companies-- If we're stopped, and they're abusive with us legal ones-- And I would like for the Department of Transportation--

Safeforce Transportation Company has been closed down. Now I want to open my own company, because there were two of us co-owners. And like myself, there are a lot of people who would like to work legally in this country, giving good service. But the Department of Transportation is giving us too many problems. It takes a long time for them to approve a permit. If they approve the permit, then they take two or three weeks to come to check the vehicles. I don't know if it's a lack of personnel or what it is. But that's

the problem that we have, and continue to have, with the police departments and the Transportation Department.

I repeat, they are doing a good job, but they have to show respect to those of us who want to work legally in this country.

Thank you, ladies and gentlemen.

ASSEMBLYMAN WISNIEWSKI: Thank you for your testimony.

Any questions?

Assemblyman Biondi.

ASSEMBLYMAN BIONDI: Did you mention you had 15 to 18 passengers in the vehicle?

MR. AVILA: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) Right, but not all the time. I mean, we all make mistakes, from the department of vehicles on down.

ASSEMBLYMAN BIONDI: What's the capacity of the vehicle for passengers?

MR. AVILA: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) Fifteen with the driver.

ASSEMBLYMAN BIONDI: I didn't understand the testimony. You were saying you were a business, and you clearly violated the number of passengers allowable in that vehicle.

MR. AVILA: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) The thing is, Safeforce had been functioning for four years, one day to the next.

We got a letter saying that our permits were being taken away because we were short on some papers.

What I'm saying is, we were working for four years. And during those four years, everything was being done right. And I don't know what happened that made them suspend those transportation permits.

Something else: They used to give us tickets for hiring without a permit or something. And in those days, it would cost us \$350. Now, one of those tickets is \$1,500. I don't know if that can be changed from one day to the next.

ASSEMBLYMAN WISNIEWSKI: Let me just ask the question. It seems to me that you have experience with the paperwork, the regulations, and it takes a long time.

MR. AVILA: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) Yes.

ASSEMBLYMAN WISNIEWSKI: You said you got a letter revoking your license.

MR. AVILA: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) Permits for transport.

ASSEMBLYMAN WISNIEWSKI: Who sent you that letter?

MR. AVILA: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) The Transportation Department.

ASSEMBLYMAN WISNIEWSKI: And did they say why?

MR. AVILA: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English)
Supposedly, some of the paperwork was missing. But we had been working for four years, supposedly well.

I think if they realized that, they should have given us some time to put our paperwork in order.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Thank you for your testimony.

ASSEMBLYMAN BIONDI: Why is the Department going after companies that are working legal or quasi-legal, and yet there's no attention paid to the illegal operators?

ASSEMBLYMAN WISNIEWSKI: That's a very good question. We need to ask that of the Department of Transportation.

Roberta.

ROBERTA KARPINECZ: Yes, thank you.

Good afternoon.

My name is Roberta Karpinecz, and I'm the Director of Keep Middlesex Moving, Middlesex County's transportation management association. My organization works with State, county, and local governments, employers, and commuters to implement alternatives to single occupant driving, particularly the use of mass transit and ridesharing in carpools and vanpools. KMM is one of eight nonprofit transportation management associations in the state, and we and the other TMAs are funded by New Jersey Transit and by the Department of Transportation.

Today, what I'd like to do is talk a little bit about vanpooling and several programs that are available to help vanpoolers defray their costs. When

I refer to vanpools, I mean a voluntary commuter group riding in a vehicle obtained from a third-party vanpool provider. And I believe two of the vanpool providers are here today.

The provider covers the cost of \$1 million insurance coverage; the use of CV, or commuter van, plates; and handles other issues including maintenance of the vehicle. The commuter group leases the vehicle from the third-party vendor on a month-to-month basis. One member of the group serves as the driver-coordinator and has limited personal use of the vehicle. This individual, the driver-coordinator, must have a valid New Jersey driver's license. He or she collects the monthly fees and makes arrangements with the provider for servicing. The others share the monthly operating costs such as the lease, gas, and tolls. While the variables such as distance, the size of the van, and the number of passengers apply, generally speaking it costs about \$.05 a mile to commute in a third-party van.

But there are more savings. The Federal government allows employers to offer a tax-free fringe benefit of up to \$105 a month to employees who vanpool. And New Jersey Transit offers the vanpool sponsorship program, which provides \$150 a month per vanpool group.

Now, there are some stipulations for eligibility for the vanpool sponsorship program, and they are: that the vanpool must be a voluntary commuter group, the van must be leased on a month-to-month basis from a participating vanpool provider, the workplace destination must be in New Jersey, the van must have a seating capacity of eight to 15 passengers, the van cannot exceed five years in age or 120,000 miles, and the van cannot duplicate existing public transit routes.

My agency, Keep Middlesex Moving, and the other TMAs also support vanpooling in a variety of ways. At KMM, we offer free ride-match service for people who wish to carpool or vanpool. We provide an empty seat subsidy of \$125 per month, for up to three months, to help new or struggling vanpools keep operational. We provide a free emergency ride home to people who are participating in vanpools. In other words, if you're a passenger in a vanpool, and someone in your family becomes ill, how are you going to get home? You're not driving the van. We will provide up to three free rides a year to get home to meet your needs. We process the vanpool sponsorship application paperwork. We assist employers who wish to start up vanpools. We offer on-site promotions. And we have print, radio, and direct marketing in English and Spanish.

To sum it up, vanpooling can be a safe, cost-effective way to work. Free ride-match service is available. The New Jersey Transit Vanpool Sponsorship Program is offered for qualified vanpools. We offer an empty seat subsidy. There are Federal, tax-free fringe benefits. And eligible vanpoolers can receive the emergency ride home.

I just wanted to introduce you to this alternative to some of the scenarios we've been discussing today, and to let you know that there are agencies -- and, in fact, New Jersey Transit and the Department of Transportation -- that are trying to help defray the costs of safe vanpooling.

Thank you.

ASSEMBLYMAN WISNIEWSKI: Thank you very much for your testimony.

Does anyone have any questions?

ASSEMBLYWOMAN STENDER: I do.

ASSEMBLYMAN WISNIEWSKI: Assemblywoman Stender.

ASSEMBLYWOMAN STENDER: Do you have any interaction with these so-called employment agencies that we keep hearing about?

MS. KARPINECZ: No, we're not a transportation provider. We work directly with an employer, or with commuters, or with State or local agencies.

For example, we worked with Middlesex County to set up the Exit 8A shuttle bus service. That was funded through what's called a JARC grant, a Job Access/Reverse Commute grant. And it was designed to link workers with jobs. And that shuttle bus operates between the New Brunswick train station, travels down Livingston Avenue, and into the Exit 8A area to provide low-income workers to lower-income jobs. I think it's \$1.50 each way for the shuttle bus service. People who ride that service are entitled to our emergency ride home program. And Middlesex County's department of transportation administers that.

ASSEMBLYWOMAN STENDER: And is it successful? I mean, is it being--

MS. KARPINECZ: Yes, it is. As a matter of fact, it's been in operation about a year-and-a-half or so. And they now have a shadow vehicle, because once the bus reaches capacity, they still have folks who need rides. So they have two vehicles now essentially traveling the same route.

But I think earlier you had also asked about the community vanpool program--

ASSEMBLYWOMAN STENDER: The jitneys.

MS. KARPINECZ: --that New Jersey Transit had sponsored. That offered municipalities an opportunity to apply for funding for a shuttle bus vehicle that they could-- The point of it was to connect people to mass transit during peak periods.

Metuchen, for example, has one where they will transport people to the Metuchen train station in the morning and in the afternoon to meet their trains -- Edison, also; and I believe Old Bridge, in Middlesex County, also has a vehicle.

ASSEMBLYWOMAN STENDER: So for the issues that we're hearing about today, that probably wouldn't be particularly eligible, because there is no mass transportation to some of these destinations.

MS. KARPINECZ: That's exactly right. As you've become aware, you have so many levels of problems here with labor, transportation. Transportation is a part of it, but there are so many issues involved in it. And the problem with mass transit -- or the thing about mass transit is the mass. If you don't have a mass of people going to a location at a particular time-- It costs as much to put a bus on the road for five people as it does to fill it at 40.

ASSEMBLYWOMAN STENDER: Thank you.

ASSEMBLYMAN WISNIEWSKI: Thank you. And thank you for your testimony.

Next I'd like to call Norma Diaz, D&F Transportation; Mark Tornquist, Vanpool of New Jersey, Inc.; Michela Ramirez, New Galindo Transportation; and Chris Bosmediano, Bosmediano's Transportation Services.

I guess they're not here, so--

Norma, if you would please give your name for the record.

N O R M A D I A Z: Norma Diaz, D&F Transportation.

I would like to thank the Committee this afternoon for putting this meeting together.

Actually, the company-- My mom is the owner, and I've been working with her since Day 1. We started out as an illegal transportation company. And through the police -- the Perth Amboy Police Department, we learned the ways of how to become legal.

It has been a struggle for the past six years. The reason why is because not only -- we can't compete with the illegal vans. They charge less, they practically obligate the employee to ride with them. In our case, for instance, we do have contracts with employment agencies.

And the other people described the condition of the vehicles. Obviously, they're using illegal transportation companies to work with them, because DOT is very tough on us. Our vehicles have to be in good shape. We have inspections every six months. The problem that we keep coming across is that every time we have a spot stop, we -- even if our vehicle was inspected yesterday -- if we go through one of those roadblocks, we have to get reinspected again. And that costs us time and money. We have lost three contracts because of that. Our vehicles were inspected a week before, and then we got stopped. We have to provide another vehicle to transport those passengers, because the contract that we have with the employment agency-- If we don't provide the service, we don't get paid. That's the bottom line. If those employees don't get to the workplace, we don't get paid. And by having those spot stops, we have lost money.

I do applaud the work that the Department of Transportation is doing lately. I mean, they have changed dramatically. They have done -- they have made new laws in which they are putting -- making it harder for illegal buses to operate. However, they're also making it harder for the legal people to operate in a way that--

In order for you to have the utility -- the permit of necessity of public utility-- The way that they put it seems easy, but when you are doing the paperwork, it's not that easy. It's extremely difficult. We have to put an announcement in the newspaper. We send the announcement to the Department of Transportation, to find out that we did the wrong thing, because we were following the old book, not the new book.

So things like that-- It's really hard for us. Unless we have a set of rules that explain to us, "This is what we need from you guys to give you the permit," we won't be able to do it and get it in 24 hours.

ASSEMBLYMAN WISNIEWSKI: So, right now, you operate with a Certificate of Necessity.

MS. DIAZ: We have an emergency Certificate of Public Necessity.

ASSEMBLYMAN WISNIEWSKI: Why an emergency?

MS. DIAZ: An emergency because we were in the process since 1998. And whoever was working in the Department of Transportation -- they didn't know what they were doing. At least Sue Kleinberg -- she knows what she's doing. The person that was working there before-- We provided all the paperwork, and somehow the paperwork got lost.

ASSEMBLYMAN WISNIEWSKI: So you were trying to follow the law.

MS. DIAZ: Right.

ASSEMBLYMAN WISNIEWSKI: And the agency with which you were dealing wasn't being very helpful.

MS. DIAZ: Right.

We went through three different people to get our permanent permit.

ASSEMBLYMAN WISNIEWSKI: And how long did that take you?

MS. DIAZ: Since 1998. We don't have a permanent permit yet.

ASSEMBLYMAN WISNIEWSKI: So it's 2005.

MS. DIAZ: 2005.

ASSEMBLYMAN WISNIEWSKI: For seven years you've been looking for a Certificate of Necessity.

MS. DIAZ: Right.

ASSEMBLYMAN WISNIEWSKI: And we're sitting here today asking why people aren't following the law.

MS. DIAZ: Right. And that's the reason why -- because it's extremely difficult.

And when the Department of Transportation doesn't have the key people, that know what they're doing, in place to guide us in the right direction-- That's all we're asking for.

ASSEMBLYMAN WISNIEWSKI: Were you here for the testimony earlier when I asked how difficult the process was to get a Certificate of Necessity?

MS. DIAZ: Right. Twenty-four hours? Tell me what I need to do to get my permanent permit in 24 hours, because we will do it.

ASSEMBLYMAN WISNIEWSKI: What made you change? You said you started out operating as an illegal service. What made you change?

MS. DIAZ: We wanted to do the right thing. We didn't know we were operating illegally.

ASSEMBLYMAN WISNIEWSKI: Okay.

MS. DIAZ: The way we started was, I was in high school then. And my dad lost his job. So he-- A group of us from school got together and said, "Hey, your father has a van. Why doesn't he take us to school?" So all the parents got together, and they used to pay my dad to take us to school. And that's how we started.

The police of Perth Amboy -- they stopped my dad and said, "What you're doing is illegal. You can't just pick up a whole bunch of kids and take them to school, even if your kids are there."

ASSEMBLYMAN WISNIEWSKI: So you didn't know you were operating illegally.

MS. DIAZ: We didn't know.

ASSEMBLYMAN WISNIEWSKI: When you found out--

MS. DIAZ: We submitted all the paperwork to DOT, and it's been since 1998.

ASSEMBLYMAN WISNIEWSKI: Now, how much is the insurance on your van?

MS. DIAZ: Right now, we're paying about \$7,000 to \$8,000 per vehicle.

And that's another problem. In New Jersey, insurance is a problem for all of us. But when it comes to commercial bus companies, there's only very few. And we end up with the State company, which is National Continental. Those people-- It's a nightmare. I mean, we get our insurance policy changed from time to time, and the premiums go up.

Last year, for seven vehicles-- This year for seven vehicles, we pay \$49,000. We don't make that kind of money. We are just surviving. You know when you're under water, and just the tip of your nose is up? That's how we operate.

ASSEMBLYMAN WISNIEWSKI: What type of coverage does that buy you?

MS. DIAZ: Well, we have a million-dollar coverage for each vehicle. DOT requires that we have a minimum coverage, so we follow DOT's regulations, which is half-a-million for each vehicle.

ASSEMBLYMAN WISNIEWSKI: And what about personal injury protection -- coverage for the passengers?

MS. DIAZ: Three hundred thousand, I think it is, for each passenger.

So, insurance-wise, we follow every single one of DOT's regulations. There's a form that is called, I think, Form F, that the insurance

company sends to DOT. If, by any instance, the insurance company doesn't send that notice to DOT, we get put out of service automatically.

ASSEMBLYMAN WISNIEWSKI: That's why they call it Form F.

MS. DIAZ: Yes. We can't move one vehicle.

And National Continental, being just the only insurance company that is providing insurance for this type of business, they have made so many mistakes. I had to personally take a trip to Ohio to discuss the mistake that they made in our policy.

ASSEMBLYMAN WISNIEWSKI: Your vehicles are registered as omnibus.

MS. DIAZ: Yes.

ASSEMBLYMAN WISNIEWSKI: In order to get that plate, does anybody check your vehicle?

MS. DIAZ: Yes, they do. We have to go through inspection. And there's a pink card that the inspector hands over to us. And we have to take that pink card to the department of Motor Vehicles to get our plates.

Let me tell you, the problem that I think DOT has -- they don't have, I think, the money or the manpower. Their inspectors are overworked. That's my feeling, because it's not hard to get an inspection, but you have to wait your turn. And the reason is because they don't have enough people working there.

ASSEMBLYMAN WISNIEWSKI: And this is through the regular vehicle inspection lanes?

MS. DIAZ: No, we have a special inspection. We don't go through Motor Vehicles. We have to--

ASSEMBLYMAN WISNIEWSKI: Okay. Do they come to your facility?

MS. DIAZ: They come to our auto shop, whoever we use, in town.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Prieto.

ASSEMBLYMAN PRIETO: Chairman.

You had said before, if you get stopped one day, and you're back out on the road -- even though you passed, you still must stay on the line and get inspected again.

MS. DIAZ: You must stay in the line.

ASSEMBLYMAN PRIETO: There's no provisions that they give you something that you already passed?

MS. DIAZ: We have-- Every time a new vehicle goes through inspection, they put a sticker on your window -- on your windshield. If that vehicle doesn't pass inspection, they put a big red sticker on your windshield, meaning that vehicle can only move from your parking lot to the autoshop to get fixed. And it's not supposed to have any passengers.

However, if-- There's no difference whether you got inspected yesterday or you got inspected five months ago. So I guess that's where the problem-- When the police stop you in one of those stops, you have to wait in line. And what ends up happening is that we end up waiting in line for half-an-hour, an hour, and we have passengers. If we don't have the backup vehicles to come and take those people to work, we're losing those contracts.

ASSEMBLYMAN PRIETO: Do you get anything that says, "I was inspected on such-and-such a date?"

MS. DIAZ: Yes.

ASSEMBLYMAN PRIETO: And don't they look at that before they make the stop and pull you over?

MS. DIAZ: The police, I guess, are not educated in that factor, because it's the police officer that actually stops you and takes you to wherever they do inspections.

ASSEMBLYMAN WISNIEWSKI: Any questions?

Assemblywoman Stender.

ASSEMBLYWOMAN STENDER: What's a typical, right now -- so that your -- people that are using your service are paying? What is--

MS. DIAZ: It's \$25 per person, round trip, per week.

ASSEMBLYWOMAN STENDER: Per week.

MS. DIAZ: So we have a contract like that, that we go from Perth Amboy to Holmdel. And that hardly covers costs. Because when you factor in maintenance, insurance, gas, and also paying the employees-- We have to pay-- We have to have a payroll in place. We have to pay the payroll company for employees. At one point, we were under the impression that we were able to use independent contractors. Independent contracts are a lot cheaper than employees.

We received a notification from the Department of Transportation telling us that we were not allowed to use independent contractors. And, once again, it comes to the education part in people at DOT knowing what they were doing.

All that started after Sue Kleinberg took office -- that we started knowing -- "Okay. You were not supposed to do this, but you were doing it." So we are learning as somebody new take up at DOT. And it just makes it so frustrating for us. I don't understand how it's taking eight years for us to get a permanent authority, how come our paperwork got lost, how come you tell us to do a newspaper publication this way, then if we do it that way, then it turned around that it was wrong. And we have to repay the newspaper company, repay the accountant that is working with us to redo the paperwork all over. It's a nightmare.

ASSEMBLYMAN WISNIEWSKI: It's wrong.

ASSEMBLYWOMAN STENDER: It's wrong.

MS. DIAZ: It's wrong.

ASSEMBLYMAN WISNIEWSKI: Any other questions? (no response)

Thank you very much for your testimony. We appreciate it.

MS. DIAZ: Thank you.

ASSEMBLYMAN WISNIEWSKI: Mark.

MARK TORNQUIST: My name is Mark Tornquist. I'm from Vanpool of New Jersey. I was asked to come here today. I'm the state's oldest and largest vanpool.

And it's tough to get into the transportation business, but it's tougher to stay in the transportation business. And what we have is a massive problem here with few solutions. But our third-party vanpools provide one.

As Roberta said, from KMM, we're able to provide employees with vehicles that are insured, maintained, and legitimate. And they can ride on these vans for a fraction of what it costs them to drive their own vehicles.

Our effort is to reduce some of the traffic on the highway today. There seems to be no solution to build our way out of the traffic congestion that we're dealing with. Air quality is being improved because of technology. But building over and under highways is the only solution around our overpopulation in this state.

And we feel for those that are trying to do their own thing. But, unfortunately, what they do is give vanpooling a bad name. And we want you to be aware that we're here legitimately, and we're paying those dues that are being spoke of. And we're trying to do the right thing. And we're, unfortunately, getting painted with a broad brush of: vanpools are dangerous. Well, they're not dangerous when done properly.

ASSEMBLYMAN WISNIEWSKI: That's the caveat, when done properly.

MR. TORNQUIST: It really is.

The groups have us--

ASSEMBLYMAN WISNIEWSKI: Would you agree that the ones that aren't registered with omnibus tags, are not insured properly, or have some of the mechanical defects -- those are the bad apples that spoil the bunch?

MR. TORNQUIST: They're competing with us. And, unfortunately, the press only hears bad news, and vanpooling is a dangerous thing.

I was brought out, after one of those incidences, to a company that was really concerned about their workers' comp, and they were explaining to me that all these gypsy vanpools are in and out of their parking lot, but there's no way to get around it. You see, the drivers of those vehicles are making a profit, and they can't make a profit when they're dealing with a third-party provider. The expenses are simply offset by the riders. The driver may ride for free, but that's about the only incentive that individual gets. So they would rather operate their own vehicles and take on those small fines that they might be inconvenienced with.

ASSEMBLYMAN WISNIEWSKI: Mr. Tornquist, you said you operate the oldest vanpool company in New Jersey.

MR. TORNQUIST: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: How many vans do you operate?

MR. TORNQUIST: I have about 175 in operation right now. We're at an all-time low. We had about 350 at one time. But because of corporate restructuring, and downsizing, and government not giving the push that it needs to, we have been really declining in our numbers.

ASSEMBLYMAN WISNIEWSKI: And you operate those as a contractor for various companies?

MR. TORNQUIST: No, sir. I provide them directly to employees, ideally--

ASSEMBLYMAN WISNIEWSKI: Okay.

MR. TORNQUIST: --so that the employer can abide by some of the protection that's in place for them -- and, namely, the ride sharing act,

which simply states that as long as the employer doesn't own, lease, or contract the vehicle, they're not responsible for the people under workers' comp to and from work. So we're a third-party provider.

ASSEMBLYMAN WISNIEWSKI: And what type of compliance apparatus do you have in order to get your Certificates of Necessity, and insurance, and licensing? Is that a significant part of your operation?

MR. TORNQUIST: Absolutely. And our drivers are carefully screened. They have few points against their license, they meet an age requirement, and so on.

ASSEMBLYMAN WISNIEWSKI: Does anyone have any questions?

ASSEMBLYMAN BIONDI: Just a comment. I see this as illegal operations. Either an individual or group of individuals buys a van, does not register it correctly with the omnibus registration, does not have proper insurance for those individuals that it's carrying to and from employment, and the penalties are not severe enough to prevent the illegal operations.

I've heard so far-- I think DCA, Department of Transportation, the AEG, Motor Vehicle Commission, etc., etc., etc. I think we need to get -- collectively -- and create a standard that they either adhere to or do not. But a \$30 summons, in all due respect, is not a deterrent to stop operating an illegal operation. I think the penalty has to be severe enough that the fine is substantial and the vehicle is impounded until such time the fine is paid. I think the pain has to begin to outweigh the pleasure. You're putting individuals, human beings, at risks with these unsafe vehicles, that we saw a slide show before by the inspectors--

I don't know where to start, Chairman. Do we get all of these commissions together? Do we draft a legislation making the penalty so severe that it's not worth an individual taking the risk to put these human beings' lives at stake? But a \$30 summonses isn't going to stop anyone from--

ASSEMBLYMAN WISNIEWSKI: You're absolutely right. And I think one of the things we've learned today is that you have the operators, such as Mr. Tornquist, who follow all the rules, and then we have a variety -- and probably a larger number out there who aren't following the rules. We've seen a multiplicity of jurisdictions, in terms of which State department, what State agency, what State regulations -- often which are inconsistent.

We need to have the Office of Legislative Services do some research for us on all of the regulations and laws that are out there, so that we can understand them. Maybe there's a need to homogenize them. To have a different standard for paratransit as opposed to commuter vans does not seem, at least from my perspective as Chairman, to make a lot of sense and creates confusion.

To have this Committee told that it takes -- it could take 48 hours to get a Certificate of Necessity, and then to have somebody come in and tell us they've been waiting eight years, seems to point to a problem. Maybe it's a manpower issue, maybe it's a coordination issue. But I think these are some of the things that this hearing is helping us uncover and understand. I think the first thing we need to do is understand the problem. Then we need to direct the research into solving it before we take any actions.

I'm very concerned. And I know, Assemblyman, you are -- as I think everyone up here is. We don't want to throw the baby out with the bath

water. We could have a knee-jerk reaction and regulate, and mandate, and wind up having fewer opportunities for transportation, and that's not what we're about up here.

ASSEMBLYMAN BIONDI: I'd be interested in knowing why it's taking, from the other side -- from the State commission who is responsible for the licensing -- why it has taken some seven, or eight, or nine years to get that company licensed.

ASSEMBLYMAN WISNIEWSKI: And I will get an answer for you, because I will be calling them after this hearing.

ASSEMBLYMAN BIONDI: Thank you, Chairman.

ASSEMBLYMAN WISNIEWSKI: Mr. Tornquist.

MR. TORNQUIST: I think the problem is larger than this room, with all due respect. I think it involves the Department of Insurance, as well, who dictate to us what we can and cannot do. We cannot provide vanpools to temp agencies. It's something that we can't control, and the insurance companies realize that. And we have to be careful of riders that don't have their own personal auto insurance. Because when there's an accident, those injuries and damages are paid for by the provider of the vehicle. So there are several issues here. And, again, I think it's larger than this room. And the Department of Labor needs to be brought in on it, too.

Thank you for hearing us today.

ASSEMBLYMAN WISNIEWSKI: Thank you, Mr. Tornquist. We appreciate your testimony.

Chris, why don't you come up to the microphone?

And Michela, would you please come up closer to a microphone so that we can get your testimony?

Chris, do you need a translator?

CHRIS BOSMEDIANO: No.

ASSEMBLYMAN WISNIEWSKI: Okay. Why don't you start, please. BTS Transporation, right?

MR. BOSMEDIANO: I'm second oldest in New Brunswick, after Mr. Solano -- his company. I was the second one -- probably was the second one -- his company. We've been in business for 10 years.

ASSEMBLYMAN WISNIEWSKI: Could you just get a little closer to the microphone?

MR. BOSMEDIANO: Yes.

In the beginning, we did have problems with the DOT because we didn't know what we were supposed to do.

Recently, a lot of things have changed for our benefit. Since now the illegal vans are getting more problems from them -- which helps us, because they are, like, a lot of competition with us, that are trying to do the legal thing. There's more than 50 percent illegal vans -- actually more than, legal vans are.

Another problem is that-- One of the guys mentioned that the staffing agencies are not allowing them to take their own transportation, and that's discrimination. I agree with that. When it comes to the point where he wants to go in his own ride-- He owns a car, and he wants to go to the company-- Well, that's fine. But the problem is, most of these people that are doing this are seeing that the business -- the transportation business is a good business -- get you some money. What they're doing is buying little minivans.

And what happens is, big companies like L'Oréal, Johnson & Johnson -- huge companies -- they allow these people to go in minivans and take 50 percent of our business. Because one buys a van -- he owns it. But I understand, from the Department of Transportation, that it's illegal, when you go to a route -- and you go more than three days -- you already have a set-up route -- you need a permit from the Department of Transportation. And I understand that, and it should be that way, because there's people that are taking--

ASSEMBLYMAN WISNIEWSKI: But you just-- You said for more than three days.

MR. BOSMEDIANO: Yes.

ASSEMBLYMAN WISNIEWSKI: So that if--

MR. BOSMEDIANO: Because then he becomes--

ASSEMBLYMAN WISNIEWSKI: So if I do it for two days, I don't need one?

MR. BOSMEDIANO: Well, that's what the Department of Transportation says. It becomes a route, and they don't have it. We pay for routes -- a lot of money. We pay for DOT, we pay for everything.

So these companies -- I mean these people are buying vehicles, taking six or seven -- overloading them like the police officers said -- with 11 people -- into accidents, and taking our business.

I support the DOT to get more personnel and doing what they have to do. It's affecting us. It used to be--

ASSEMBLYMAN WISNIEWSKI: So the illegal operators are hurting your business.

MR. BOSMEDIANO: Definitely. There used to be, I'd say, 15 or 20 companies in New Brunswick. Now I hardly see three or four. It's not only--

Someone said that it's the DOT's fault, because they're hiring us. You've got to do what you've got to do, and that's it. You want illegal -- you've got to obey the law.

But like I said, these other companies that offer services -- they're not legal -- get into accidents. They're taking our business away.

ASSEMBLYMAN WISNIEWSKI: Thank you for your testimony.

Does anyone have any questions? (no response)

Again, thank you.

Michela.

MICHEL A R. RAMIREZ: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) My name is Michela Ramirez, from New Galindo Transportation. I live in New Brunswick.

I'd like to thank you for having given us a bit of attention.

We're here because we're trying to do the right thing. I have a small company. I had three vans, but now, since there isn't any work -- there is a lot of competition from the vans that don't have a company -- so I've ended up with only one.

Sometimes we find work, but sometimes we don't, because the other vans-- They even tell the personnel that the ones of us that have permits -- the DOT stops us all the time. And the ones whose vans don't have permits keep running just fine -- they keep running just fine.

And I also wanted to ask you if the DOT could also help us. When the vans go through inspection, they should tell us to go to take them through inspection. I'm talking on my own behalf. I take them in, and they tell me what day it's going to be inspected. The mechanic tells me to bring the van in early so that they can check it out, so that they can go over it, so that when the inspector gets there, it will pass inspection so that it can run.

Or sometimes, because of a problem that the inspector finds, the van is stopped until the mechanic fixes whatever needs to be fixed. But they don't come and do that the next day like they're supposed to. Sometimes they keep our vans stopped there for three or four days, and we lose that time; because we can't substitute another van to be able to transport the people that can't get transportation because the van is stopped.

And the insurance costs are very high -- and the van is stopped. And we're the ones who lose.

ASSEMBLYWOMAN STENDER: Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: Yes, Assemblywoman.

ASSEMBLYWOMAN STENDER: I have-- It's not even a question, so much, for this woman who's here before us.

But we keep hearing over and over about how the DOT hassles the legal operators but not the illegal ones.

ASSEMBLYMAN WISNIEWSKI: I'm concerned and confused by that.

ASSEMBLYWOMAN STENDER: I just find that-- I mean, I don't think that's something that maybe we can address, but--

ASSEMBLYMAN WISNIEWSKI: I think some of this stuff we have to go back to DOT with, because this is the second person we've heard testify that they're operating properly, and they're being imposed upon.

ASSEMBLYWOMAN STENDER: Hassled.

ASSEMBLYMAN WISNIEWSKI: Hassled, whereas it appears that people who aren't operating properly are not being hassled. We need to get to the bottom of that.

ASSEMBLYWOMAN STENDER: And see if there's some statistics or if that's just presumption.

ASSEMBLYMAN WISNIEWSKI: Does anyone else have any questions for this witness? (no response)

Thank you very much for your testimony. We appreciate it very much.

MS. RAMIREZ: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Thank you.

ASSEMBLYMAN WISNIEWSKI: I'd next like to call three individuals, if you're still here. I apologize for the time it's taking.

It looks like it says Fabian Sorio, Sorio Force Transportation; Carlos Perez, Three Star Transportation. Please come up and take a seat. And Manuel Solano, Casa Mexico New Jersey.

Do you need a translator?

C A R L O S P E R E Z: No.

ASSEMBLYMAN WISNIEWSKI: No. If you would please start. Just give your name, for the record.

MR. PEREZ: My name is Carlos Perez. I'm President of Three Star Transportation, Inc.

I favor, a lot, the DOT. As much as you hear, here, that they abuse, I have not seen yet an owner-operator get up at 5:00 in the morning, go under his van, look to see if his van was safe. That's why they're there. That's why they do these stops. And I'm in favor to that. Because if they're not there to do these stops we're running illegally, because we're not personally checking each vehicle the way we're required to. And I don't see anybody waking up at 5:00 in the morning to go under their vehicle to see if they've got an oil leak, or to put their own vehicle out of service. That's why they're doing their job.

I think they've got-- They're short on manpower. I believe that. That's why there's a lot of problems. The main problem that I see here -- that you all keep asking the question, how to go about it. I'm going to tell you. The problem is the staffing agencies. They're in control of us. We don't control them. They're the ones that say, "You take these people. And you take this. And I'm going to give 15 to him. And I'm going to give 10 to you." That's how that's run.

The staffing industry is the one that are killing us, not the police, not the DOT. Because if I'm parked in front of the staffing agency, and I'm legal, and I see an illegal van loading up with 15, and they just give me three people to go to Edison, that's your problem, because they charge them cheaper or because they just have a relationship with the dispatcher, or whatever for.

But this is the problem that's going on. It's the staffing agencies that are killing us. It's not anyone else. I don't see anyone else killing us but our own staffing people.

ASSEMBLYMAN WISNIEWSKI: Do you work for the staffing agency? Are you a contractor?

MR. PEREZ: Yes, I am a contractor for a staffing agency. And I'm seeing that problem go on right now. And I'm a permanent operator. I have a permanent -- DOT permanent authority. I'm not an emergency carrier. I am a permanent authority.

When the accident that was viewed there came across, they called me, because they wanted to have everything legal, supposedly, so that it looks good on paper in case further investigations come through them. But they only do that for the first two or three weeks. The next thing you know, you've got a whole load of vans there, illegal. And the ones that are legal are just barely surviving.

ASSEMBLYMAN WISNIEWSKI: So how do we fix it?

MR. PEREZ: You've got to attack the staffing agencies. I think if you all really go after the staffing agencies, it will help us progress -- for the other people that are legal to put better service out there.

You can't give a full guaranteed service if you don't have the -- how would I say -- the approval of your own staffing people.

ASSEMBLYMAN WISNIEWSKI: Right.

MR. PEREZ: If I'm waiting there to pick up 14 people, and they only give me three, and the other individual is not legal and he is getting 14, that's our problem. How can we pay insurance? How can we keep up to code if the other illegals are making money that we should be making?

ASSEMBLYMAN WISNIEWSKI: And the staffing agencies are using more of the illegals?

MR. PEREZ: Absolutely.

ASSEMBLYMAN WISNIEWSKI: Because it's cheaper?

MR. PEREZ: Well, I don't know what reason they have. But I am assuming it's because either they're cheaper, or they're not getting harassed by DOT, or other -- whatever other reason they might have.

ASSEMBLYMAN WISNIEWSKI: Let me just see if any other members have a question?

Assemblyman Biondi.

ASSEMBLYMAN BIONDI: Sir, are you suggesting that the agency be required to go out and do a physical inspection of the van to see if it's registered and licensed properly, and is in good working order prior to assigning workers to it?

MR. PEREZ: Absolutely.

I think that everybody in the staffing business should have some kind of control of what drivers you have, if their insurance is up to date, if their required DOT inspections -- if they are inspected, and if they're not out of service.

I'm in the business, and I-- Today, to this day, I have people parked in the lot, waiting for people, with a red sticker on their windshield. And the staffing agencies are still filling their vans. How could these people operate like this? It's not their fault. They're looking to make a dollar however they make it.

ASSEMBLYMAN BIONDI: The staffing agency-- Do you call them and tell them you're available? Do they call you for a pick up?

MR. PEREZ: Absolutely.

ASSEMBLYMAN BIONDI: How does it work, actually?

MR. PEREZ: I go in the morning. I go inside. I let them know that I'm available. I have two vans out there, DOT certified.

ASSEMBLYMAN BIONDI: Okay.

MR. PEREZ: And we sit out there and wait until they give us a run. But you sit there from 5:00 in the morning, and you get one run at 7:00, while these other illegals are riding -- and you only get one run. You go back to them, and you argue with them, they think you're the bad guy, you're arguing.

ASSEMBLYMAN BIONDI: I can appreciate where you're coming from. But if you were required -- not you, but an independent owner-operator, whatever the terminology is, for the van-- If they're required to bring in their registration, license, etc., etc., their credentials, what's to say that the staffing agency person -- that that's the actual vehicle that's parked outside?

MR. PEREZ: Well, they've got dispatchers who directly go to the vehicle to put the people in.

ASSEMBLYMAN BIONDI: Oh.

MR. PEREZ: Every agency has dispatchers who physically take the employee into the van, count how many there are, grab their names with social securities. They don't care whether there's 18 people. They'll tell you, "Oh, just do it today."

Personally, me-- To this day, I don't carry any more than 14 people in my van. If they want to give me the 14 -- because I don't take 15. But if the company needs the 15, they'll put it into an illegal van, because they know I won't do it.

ASSEMBLYMAN BIONDI: That's because you're a legal operation.

MR. PEREZ: And then it hurts me, you see?

ASSEMBLYMAN BIONDI: I see.

ASSEMBLYMAN WISNIEWSKI: Absolutely.

MR. PEREZ: They're giving the 15 people to the other guy instead of--

ASSEMBLYMAN WISNIEWSKI: So what we're finding out here-- Not only are the fines not an effective disincentive to operating illegally, but the way the business runs -- not the way you run it, but the way the people who hire you run the business-- They would rather you operate illegally than operate legally.

MR. PEREZ: Ninety percent of them do that.

ASSEMBLYMAN WISNIEWSKI: Assemblywoman Stender.

ASSEMBLYWOMAN STENDER: Mr. Chairman, do we know who has oversight on the employment agencies? Are they licensed?

ASSEMBLYMAN WISNIEWSKI: I think the Department of Labor. But that's something we have to look into.

ASSEMBLYMAN BIONDI: One other question.

ASSEMBLYMAN WISNIEWSKI: Consumer Affairs.

ASSEMBLYMAN BIONDI: If I may, just a follow-up.

ASSEMBLYMAN WISNIEWSKI: Yes.

ASSEMBLYMAN BIONDI: It just came up now.

Who pays you, the staffing agency or the individuals themselves?

MR. PEREZ: The staffing agency pays us.

ASSEMBLYMAN BIONDI: And they charge the--

MR. PEREZ: They charge the employee. They deduct whatever -- the \$5 out of the payroll from the employee.

ASSEMBLYMAN WISNIEWSKI: Is it a pass-through, or are they making a buck on it?

MR. PEREZ: I don't know if they make a buck on that.

ASSEMBLYMAN BIONDI: That's interesting.

MR. PEREZ: They only tell us, "We can pay you \$5 a head." If they charge \$7, or if they charge--

ASSEMBLYMAN WISNIEWSKI: You don't know.

MR. PEREZ: We don't know that. We only can-- If they tell us \$5, that's what we've got to charge them.

ASSEMBLYMAN BIONDI: Which means, if they're deducting it from the payroll--

MR. PEREZ: Right.

ASSEMBLYMAN BIONDI: That means that's exempt from State and Federal taxes, isn't it? So you also have another agency you might want to call here -- the IRS and the State tax board.

MR. PEREZ: Right.

ASSEMBLYMAN WISNIEWSKI: Yes.

ASSEMBLYWOMAN STENDER: That's probably true.

ASSEMBLYMAN WISNIEWSKI: It's a good point.

ASSEMBLYMAN BIONDI: Now we're up to about 12.

ASSEMBLYMAN PRIETO: Mr. Chairman.

So you said they basically dictate to you when you're going to run. So, in other words, if they wanted you to take 15, and you're not going to do it, they'll give it just to somebody else because they won't split it up.

MR. PEREZ: Absolutely, without any problem. And then what happens is, 8:00 rolls around, work is finished, and they'll tell you, "Well, I'm sorry." And you've got to eat it, and you've got to pay insurance, and you've got to keep DOT requirements.

And I work very hard to keep my DOT requirements, because I'm a permanent operator. Keep in mind that I have a permanent authority. I've been in business for five years. What happens is, DOT gives you an emergency authority. In that emergency authority, it explicitly explains that you do need to follow up, within a year, with your paperwork to get it permanently authorized.

ASSEMBLYMAN WISNIEWSKI: Apparently, it seems it takes--

MR. PEREZ: A lot of people do not follow up. That's what happens.

ASSEMBLYMAN WISNIEWSKI: Or seven years, as we heard earlier.

MR. PEREZ: Well, I don't know what happened there. I've got to be honest with you.

ASSEMBLYMAN WISNIEWSKI: Thank you for your testimony this morning. We appreciate it.

MR. PEREZ: Thank you.

ASSEMBLYMAN WISNIEWSKI: Sir, if you would give your name for the record.

MANUEL J. SOLANO: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English)
Manuel Solano, from Casa Mexico.

Above all, thank you for the invitation.

This problem has been going on for the last 10 years. And those who have spoken before -- what they have said has been true. The abuse, especially abuse towards immigrants-- We should recognize that this is due to the increase in immigration into the state. We know the problem. And somebody said we have to recognize that to work towards a solution.

Above all, it's a question of power and money, who has the power, and who can get money from it. Everybody blames everybody else, but we're here to find a solution to the problem. And the problem is, as we're finding out, us immigrants.

As Assembly people, if you could propose legislation to give licenses to immigrants, then none of this would be happening. Nobody would be abused; nobody would be with illegal vans or cars; and, above all, there would have been no deaths that were caused by people operating this way.

You care about human life. That's why we're here.

ASSEMBLYMAN WISNIEWSKI: That is why we're here.

Thank you for your testimony.

MR. SOLANO: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) I'm not finished. (laughter)

ASSEMBLYMAN WISNIEWSKI: I'm sorry. I thought you were.
I'm sorry.

MR. SOLANO: (witness speaks in Spanish)

MR. VAN NORMAN WHITFORD: (translates to English) I just lost--

ASSEMBLYMAN WISNIEWSKI: While you're getting your thoughts together-- I apologize.

I have to make a public service announcement. There is a Volkswagen -- a silver Volkswagen blocking someone else in the parking lot -- on the side street here. So if you're the owner of that silver Volkswagen, if you wouldn't mind moving it.

Can you say that? Can you translate that?

ASSEMBLYMAN PRIETO: It's his vehicle. (laughter)

ASSEMBLYMAN WISNIEWSKI: We didn't need a translation.

I'm sorry, please continue.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Yes, the main problem that we've spoken about, as immigrants-- Please understand we're immigrants, we're all human beings.

A lot of you get scared because you see the number of Hispanics out there now. We're not from some other world. We're from the same world. All we want is to work. We came here to get ahead. And sometimes we're treated like we're aliens.

ASSEMBLYMAN PRIETO: Chairman, I just want to explain and let him know that there is representation up here.

I'm an immigrant. So I just wanted to let you know that. So we do care about your feelings and all that. So I just want to make sure that we

come across with that. We have a very diverse Assembly that has every walk of life and different nationalities in it. So we do take that into account very seriously.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) In spite of all of that, I would like you to realize everything that is going on out there. And now you know. And please help us.

We're all trying to find some benefit and do better in this country. The transportation companies that are functioning legally and who do their job right-- This is a big, new immigrant community. I'm speaking especially about Latinos. And everybody's trying to take advantage of us.

So all we want is, and I would ask you, instead of functioning legally or paying people who abuse us -- especially the employment agencies -- if we could be given a license, even if it's temporary, for a year or two, so that we could drive, all of these problems will be avoided.

ASSEMBLYMAN BIONDI: A driver's license or a business license?

ASSEMBLYMAN WISNIEWSKI: Driver's license.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) A driver's license for immigrants, because there are a lot of people who drive without a license, because they have to be able to get to work to be able to feed their children. Legally or illegally, they're going to do it, because they need to eat.

So that's all I'm asking for, on behalf of Casa Mexico -- to help us in that way. And in that way, all these kinds of problems could be avoided.

It's hard to believe, but that's the main point that we should deal with rather than blaming everybody else.

Thank you very much.

ASSEMBLYMAN WISNIEWSKI: Thank you for your testimony.

Any questions?

ASSEMBLYMAN BIONDI: If your permanent residency is here, you can't get a driver's license?

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Sir, what's your name?

Excuse me?

ASSEMBLYMAN BIONDI: Biondi, B-I-O-N-D-I.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Mr. Biondi, in the State of New Jersey, one of the biggest states -- with the most immigrants -- with the most illegal immigrants-- But please don't call us that. We're human beings. And that's why we don't have licenses -- because a lot of people are illegal here. There are millions of people -- immigrants who do not have their documents.

ASSEMBLYMAN WISNIEWSKI: Only one can speak at a time. Otherwise, we can't translate.

ASSEMBLYMAN BIONDI: I got his point now. Illegal immigrant -- he wants to have a license.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) That's why I said don't look at us as if we're from another planet. We're immigrants. We're not

illegal. We pay, we come here, we work hard so that this country, as Mr. Mayer said -- Mr. Prieto said, excuse me--

You are Latino, and you're working hard so that this country should grow. And that's what we want to do. We didn't come here to take anything away from anybody. We want to give back to this country.

ASSEMBLYMAN BIONDI: Now I think I understand what you're saying. You want a driver's license for an illegal immigrant. Is that what you're saying? No one here is looking at you in any unfavorable light, whether you came from whatever country. You want a license issued to an illegal immigrant? Is that what you're saying? I was having trouble following.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Yes, that's right. But I'm asking the gentleman to please not say illegal people, because they get scared. We are immigrants. Please don't call us that.

ASSEMBLYMAN BIONDI: Call you what?

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Illegal, we are immigrants.

ASSEMBLYMAN BIONDI: No, I thought you had mentioned the illegality of the immigration. Therefore, you weren't allowed to get a license. I apologize if I'm not following, but that's what I thought you had said.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Yes, I was talking about people who do not have their residency.

ASSEMBLYMAN WISNIEWSKI: Mr. Solano, I want to assure you that the reason this Committee is here today, and not in Trenton, and the reason we're here discussing this issue, is because we care about the people who are using these vans and are very often putting their lives at risk.

We are here today to listen to testimony from individuals such as yourself, regardless of status, so that we can understand the problem and come up with a solution. You've suggested one such solution. That may be something we consider. But it's important for us to hear that.

We're not passing judgement on anyone here today. But we want to understand the problem.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Yes.

Once again -- just 20 seconds -- that's the problem. We are a new community. Everybody is trying to take advantage of us. We're asking for your help so that that doesn't happen, so that nobody else has to die.

ASSEMBLYMAN WISNIEWSKI: That's what we're trying to do.

MR. SOLANO: (witness speaks in Spanish)

MS. GRASBERG: (translates to English) Thank you.

ASSEMBLYMAN WISNIEWSKI: Thank you very much.

The hour is getting late. It is 1:25. We have three individuals, who have signed up, who are left to testify. As you can see, some of our Committee members had to get back to Trenton for other Committee meetings they had. So I apologize for their absence.

I would like to call Roland Feit, from VPSI; Andy Bawden, from VPSI; and Fabian Camana, from VIP, LLC.

Since you are lucky enough to be at the witness table first, you can begin. Just give your name for the record.

R O L A N D F E I T: Assemblyman Wisniewski, members of the Committee, good afternoon.

I am Roland Feit, VPSI, Incorporated, Project Manager, serving commuters in the New Jersey, New York, and Philadelphia metropolitan region.

VPSI, Incorporated, originally created by the Chrysler Corporation in 1975, is headquartered in Troy, Michigan, and is a private company providing professionally managed transportation services to public and private customers. The company's primary business is providing and managing commuter vanpool and related alternative mobility programs.

Shortly after its inception, and at the request of several public transportation agencies, VPSI developed the foundation for what is commonly referred to as *third-party* vanpooling. The three parties involved were employers, including public agencies; VPSI; and the volunteer vanpool drivers acting on behalf of a group of commuters. Through this approach, VPSI purchases and owns the commuter vans, insures and maintains the vehicles, administers the paperwork associated with the fleet management responsibilities.

Throughout the '80s and '90s, VPSI worked to develop relationships with forward-thinking employers and public agencies across the United States to encourage the growth of vanpooling as a mass transportation service that complements other modes of public transportation. Today,

vanpool programs enjoy a position of recognition in most major metropolitan cities and, in fact, many of these programs are operated by VPSI.

Realizing that success is directly dependent upon the level of service and convenience a program offers, VPSI constantly strives to improve our service. We make every effort to offer our clients the best service possible at the most reasonable rates.

One of the defining points of our service is the attention given to risk management and rider safety. You will shortly hear from my colleague, our Corporate Manager of Loss Prevention and Vanpool Safety, Mr. Andy Bawden, who will address the fleet and risk management issues of a 3,500 vehicle fleet.

Before closing, I would like to leave you with the most salient nationally accepted characteristics and structure of a commuter vanpool in a voluntary rideshare arrangement.

Vanpools are composed of individuals who voluntarily participate in a ridesharing arrangement, as perceived in the New Jersey Rideshare Act of 1981, Title 27. 27:26-1, etc., as a commuting option.

Voluntary drivers are also commuters who, as volunteers, receive no compensation.

Voluntary vanpool drivers, representing a group of volunteer commuters who are not directly associated with an employer, sign a volunteer driver agreement, which delineates the responsibilities and obligations of the vanpool provider and the driver.

In a three-party vanpool arrangement, the volunteer driver, the driver's employer, and vanpool program provider execute a three-party

volunteer driver agreement, whereby the employer assumes financial responsibility for the payment of the vanpool fares. The employer must own or operate the workplace, and temporary employment agencies or placement services may not participate in a three-party vanpool agreement.

The vanpool program provider provides the commuter highway vehicle in a turn-key package that includes regular maintenance, automobile liability insurance, emergency roadside services, and, in New Jersey, also meets the standards and limitations of the New Jersey Transit Vanpool Sponsorship Program.

The vanpool provider alternatively accepts vouchers, as defined in the Internal Revenue Code Section 132f, for some or all of the vanpool fares.

The agreements are month-to-month and can be canceled with only a 30-day notice.

And it is generally understood that groups of individuals participate in the voluntary ridesharing agreement, where the transportation is absolutely incidental to the purpose of the driver.

Voluntary vanpool drivers who have applied and have been qualified to drive, based on certain criteria and their driving history, are themselves commuters who are volunteers receiving no compensation for their efforts, or who are volunteers who are reimbursed by the riders for the direct costs of the vanpool and its operating expenses.

Voluntary vanpool drivers use the van to pick up, transport, and deliver other vanpool passengers to and from their residences or a common staging area, and their places of employment. The vehicle makes one round

trip a day. And the vehicle may not be considered or construed as being engaged in transportation as a business.

Mr. Chairman, thank you for permitting me to share some of the positive benefits of ridesharing in a voluntary commuter vanpool.

ASSEMBLYMAN WISNIEWSKI: Thank you for your testimony.

Do any members of the Committee have questions? (no response)

Thank you.

Mr. Bawden.

G. A. “A N D Y” B A W D E N: Mr. Chairman, members of the Committee, thank you for this time and for your patience.

I see we're all sitting in the same chair today, and I will make my prepared statement a bit briefer. But I did provide you all with a package, which will share many of the things Roland went into and just a few others that I'm going to point out to you.

My name is Andy Bawden, and I'm the Loss Prevention Safety Manager for VPSI. As Roland described, we are a third-party vanpool program, much the same as Mark Tornquist's program. We operate with Roberta and other agencies throughout the country to provide safe and efficient vanpools. Safety is critical to us. Without-- Safety is really the hallmark of everything we do. It's our pledge to our drivers, to our riders, to the companies that we represent, to everyone.

I'm really going to depart from my script here. I think what is of keen importance to me, and what I've learned this morning, and what we're all learning is that riders not in a vanpool aren't participants in the transportation experience. They're being ferried to work, they're being shuttled to work.

They really have no say as to the characteristics of the van, how the driver operates, and many times, what route might be taken. We have-- People have to take different routes because of traffic. And some routes are not as safe as others. People are in a hurry to get there.

The third-party vanpool scenario represents a driver who, as a participant of that driving group, has volunteered to drive -- has stuck his hands up and said, "I'll drive." Any one of which -- any one of the people in the vanpool group could have volunteered to drive. And many times, we have alternate drivers, because someone's got to drive when that person can't.

The dynamics of this groups says that if someone is uncomfortable with the way the driver is driving, they're going to say, "Hey, slow down. We're only going to work here. Let's take our time. Let's get there."

Mark made a good point, Roland made a good point. The temporary agencies that link up for transportation services cannot be responsibly legislated, in our opinion. The third party is essential to this element of transportation, just as third party is in every other thing that -- New Jersey Transit.

Let me leave you with a couple salient remarks.

Mr. Chairman, I appreciate -- and the Committee -- I appreciate your interest in the safety of commuting in New Jersey. And I'm very pleased to have been here today and have heard what testimony you've heard.

Commuter vanpooling is the safest mode of public transportation from 1990 to 2000 -- according to information provided by the U.S. Department of Transportation, Bureau of Transportation Statistics -- with zero fatalities from 1990 to 2004. On a larger fleet sample, collected by the

Association for Commuter Transportation, that represents 80 percent of 7,500 vanpools that operate nationally. This information is provided in your package under Appendix C.

In recognition of this safety record, the reauthorization of TEA-21 contains a provision, consistent with the opinion of the Federal Motor Carrier Safety Administration, explicitly exempting commuter vanpools from recently extended FMCSA regulations for nine to 15 passenger vehicles.

Whatever we are considering here, we want you to be clear. Vanpooling is a very safe and responsible operation and serves the purpose that we're trying to address -- not (indiscernible), but an efficient and safe mode of transportation.

Commuter vanpooling is the most efficient and cost-effective service provided in the portfolio of services provided by New Jersey Transit. In calendar year 2003, the 174 vanpools operated by VPSI and Van Pool of New Jersey, both under contract to the State, generated roughly \$1.5 million in Federal formula funding for all public transportation purposes in the state, almost three times the amount of subsidy provided to the vanpool companies themselves -- or the operations for the drivers.

Mr. Chairman, again, I appreciate the opportunity to be here. The hour is getting late. Thank you very much.

ASSEMBLYMAN WISNIEWSKI: To synthesize the testimony you've both provided: "Hey, guys, it's not us," basically.

MR. BAWDEN: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: You're operating -- you're giving us statistics that are vastly different than we've heard earlier. But that's

because it's run differently, it's organized differently. It's a whole different setup.

MR. BAWDEN: Yes, sir. The control elements that Mr. Tornquist spoke of-- We screen drivers, qualify drivers. Those drivers are members of the group that's trying to get from here to there to begin with.

ASSEMBLYMAN WISNIEWSKI: But the lesson to be learned is that you do it, and it could be done profitably so that it shouldn't be-- Having those safeguards, those checks and balances, should not automatically be viewed as an impossibility.

MR. BAWDEN: No, not at all. And we seek to participate in the public and private sector, which we do in many communities.

ASSEMBLYMAN WISNIEWSKI: Thank you very much.

MR. BAWDEN: You're very welcome.

ASSEMBLYMAN WISNIEWSKI: Thank you, both, for your testimony.

MR. FEIT: Thank you.

ASSEMBLYMAN WISNIEWSKI: And I just want to make one last call. I mentioned this fellow's name before. Fabian Camana, from VIP, LLC. (no response)

We'll send him a note asking for his comments.

Ladies and gentlemen, I want to thank you for staying with us for the almost four hours that this Committee has met and listened to testimony on this subject.

Certainly, if any of my colleagues would like to make any closing statements--

But I want to assure you that this is but the first step. We've heard interesting testimony that says there are many areas of State government, many areas of regulation that, perhaps, are inconsistent, are not operating smoothly, that are not in common sense. And we intend to look into those and continue to work on this topic, so that we can make sure that those 12,000 people we saw in the one chart are able to get to work safely every day.

With that, this meeting is adjourned.

(MEETING CONCLUDED)