

DELAWARE CRIMINAL BACKGROUND AND CHILD PROTECTION REGISTRY CHECKS TASK FORCE

September 11, 2014

9:00 a.m.

**Senate Hearing Room, 2nd Floor, Legislative Hall, Dover, DE
MEETING MINUTES**

In Attendance:

Deborah Bagatta-Bowles, YMCA of Delaware
Tania Culley, Office of the Child Advocate
Brendan Kennealey, DAIS
Patricia Dailey Lewis, Department of Justice
Lisa Minutola, Office of the Public Defender
Jim Purcell, Communities in Schools of Delaware
Jennifer Ranji, Dept. of Services for Children, Youth and Their Families (Chair)
Bert Scoglietti, Office of Management and Budget
Wayne Smith, Delaware Healthcare Association

Members of the Public:

Heather Contant, Legislative Aid for the Honorable Ernesto Lopez
Beverly Flannigan, Legislative Aid for the Honorable Karen Peterson, Senate
Teresa Jones, DSP/SBI
Patricia Justice, Dept. of Health and Social Services
Beth Kramer, Dept. of Services for Children, Youth and Their Families
Aaron Lundberg, Praesidium
Jon Neubauton, Department of Education
Jim Randisi, Randisi & Associates
Cara Sawyer, Dept. of Services for Children, Youth and Their Families
Kelly Schaffer, Dept. of Services for Children, Youth and Their Families (consultant)
Kay Wilson, Legislative Aid for The Honorable Stephen Smyk

1. Welcome and Introductions

Secretary Ranji welcomed the group to the meeting. The Task Force reviewed minutes from the July 17th meeting. The minutes were approved.

Secretary Ranji reviewed the agenda. She noted the Task Force asked for data related to summer camps and private schools, which will be reported back. We have guest speakers from Randisi and Associates and Praesidium who will talk about their background checks process and how information is used. We will also talk about the DSCYF decision-making protocol. Then

the group will talk about the possibility of consolidating background checks and what that might look like. We also have a document that sets forth a number of issues we might consider for recommendation. We will start the discussion from a high level perspective and then drill down to recommendations at the October meeting.

2. Report Outs from July Task Force Meeting

Summer Camp Data

Secretary Ranji reviewed the Summer Camp Summary, which was distributed to the members. Several entities do not need to be licensed – religiously affiliated, public schools, and a few other exceptions. For those operating camps, they should go to the Division of Public Health (DPH) to get a permit. We looked at the DPH numbers, and it does not include all of the camps. There isn't a real way to know if someone is operating a camp and not going to DPH to get a permit. Secretary Ranji noted we also looked at the News Journal camps summary, and they had 1,100 summer camps listed which were run by 184 organizations. 109 is the number of camps permitted by DPH. 161 organizations are running camps not permitted or licensed. It is unknown whether they are running background checks. Some are in a category that does not require a license or permit, but for the remaining 140 it is unknown whether they have an affiliation that would exempt them from DPH permit or DSCYF license.

Camps may not be aware of the requirement to obtain a permit. Secretary Ranji reiterated it is difficult to know the number of camps operating in the state.

Private School Data

Secretary Ranji reviewed a summary of the number of private schools and their enrollment. Data shows there are about 18,000 children in private schools. There is approximately 2,300 staff in private schools and it is not known whether schools are doing background checks. This

could be part of the recommendations of the Task Force. In total, there are about 130,000 children enrolled in Delaware public schools.

3. Guest Speakers - Insights from Background Check Providers

Secretary Ranji stated the Task Force discussed the steps for background checks, particularly on the state side. Delaware has rap back to find out if new offenses come up and we also know some organizations are using outside companies for their background record checks.

Jim Randisi from Randisi and Associates presented to the group. He reviewed information shared with Task Force members. Mr. Randisi introduced a report from the National Employment Law Project (NELP). NELP conducts research on issues affecting low income and low wage workers. NELP promotes people getting jobs and supports unemployed workers.

Mr. Randisi stated he would talk about the criminal conviction search. It will be impossible to be 100% positive that you've found all criminal convictions. NELP reports one half of records in the FBI database are inaccurate. He stated it contains mostly arrest records with no disposition. If you are an employer and using arrest records you could have trouble. Secretary Ranji asked to clarify and Mr. Randisi responded that FBI records are accurate in that the arrest is accurate. Mr. Randisi stated when they use crucial identifiers to search for convictions, there are many local and district courts and it would be nearly impossible to search over 3,000 courts.

Mr. Randisi stated that on page 3 of the NELP article it talks about the system being broken and why. Law enforcement agencies detain individuals and then oftentimes the outcome fails to be reported to the FBI. Additionally, the FBI does not have one database. It relies on many jurisdictions, including states, to report into their database. Mr. Randisi noted arrests are going into a database but dispositions are not. He stated he read prior meeting minutes from the Task

Force, and he is impressed with how Delaware tries to match FBI records with SBI records. Delaware recognizes the problems with trying to get information from other states.

Mr. Randisi stated the bottom line is that the effort to go through the FBI fingerprint database requires a large amount of time on behalf of technicians and scarce resources. It is difficult to ensure records being received from FBI are accurate. Much of the US population lives in a state where 30% of records do not include information on the final outcome. Many times individuals are burdened with having to contest records when they are inaccurate or incomplete. They can be penalized in their job search and employment may be impacted.

Mr. Randisi stated the NELP article says information in the FBI database is wrong. They know from case studies of people who have successfully challenged records. This illustrates the challenges workers have when confronted with faulty records. Shortly after 9/11, new federal background checks on federal workers were implemented and the Transportation Worker Identity Credential was established. The Transportation Security Administration found missing data for 50,000 workers, almost exclusively from faulty records. Many workers who challenged the accuracy of FBI reports were successful. The Office of Personnel Management efforts to correct the database have not been welcomed by FBI.

Next, Mr. Randisi provided background information on his organization. He has been in the field since 1999 and Randisi and Associates has over 200 clients. They have processed information on about 4,000 individuals and 12,000 reports. Their company verifies information in an employment application, searches criminal convictions at different levels, runs trace reports and searches motor vehicle reports and drug testing.

Mr. Randisi summarized the use of crucial identifiers. Randisi uses names, former names and alias names to run trace reports. When it comes to criminal convictions, they go to the local

level first and don't rely just on jurisdictional databases. As much as possible they go to the court level to identify the criminal conviction to see if there is a match. Mr. Randisi stated they are often able to find convictions other than those adjudicated guilty by a court or a judge. For example, if a person paid a fine for a crime then that crime may not be in the database.

Randisi and Associates uses multijurisdictional databases. Mr. Randisi stated they always recommend this as a secondary net to cast across the county for a higher level of assurance. If there is a criminal conviction it will be uncovered. If Randisi gets a potential indication of a hit then we confirm at the county level. He stated they do not report hits to clients unless it is confirmed at the county level.

Ms. Culley asked Mr. Randisi asked if he could provide an example of what they do for Delaware clients. Mr. Randisi stated they collect name, address, date of birth and social security number to run information through trace reports and to develop any other former names or alias names. A trace report is a database that includes name, social security number and addresses from thousands of companies that report when individuals enter into a financial transaction, for example credit card applications, loans and utilities. The trace report is also used to develop addresses. If an individual has a criminal conviction they may not let their employer know the address. A trace report would hopefully identify addresses and then Randisi can explore criminal convictions. Mr. Randisi stated the multijurisdictional database runs names and goes through 350 million conviction records. Randisi pays for access to the database. A Task Force member asked if Randisi has access to fingerprinting. Mr. Randisi responded they do not. Entities have to be allowed access to fingerprinting. Typically most states take a particular type of service and grant access to their database.

A Task Force member asked if there is any way of knowing if the information is correct that they are accessing through paid sources. Mr. Randisi confirmed and said they would find out through the trace report. A Task Force member asked if they check the Delaware Child Protection Registry. A Task Force member responded they would not be able to see the database, as the Department would have to access that information. Mr. Randisi stated they check the sex offender database but not the Child Protection Registry.

A Task Force member asked Mr. Randisi to tell the group why they should have Randisi do the checks. He responded Randisi could deliver results as accurate as, if not better than, the FBI fingerprint database. They can do it at a less amount of cost than using the FBI fingerprint database, which just to submit costs around \$70. He stated Randisi could get a decision to you quicker than using the FBI fingerprint database, particularly if there are arrests that do not contain dispositions. Employers need to be careful when using arrest records. Mr. Randisi referred back to the NELP article. Many people are denied employment because their FBI fingerprint may have come back with information that caused an employer to make a particular decision. When consumer reporting agencies like Randisi educate clients they let them know if something in a report causes an adverse action then law says the individual needs to be provided a copy of the report and a chance to see if it is wrong. A Task Force member stated the group is most interested in protecting children.

Secretary Ranji stated the issue with the FBI reports is that it contains arrests that don't then have convictions. It becomes problematic if the recipient of that information uses it to make a decision. If the information is accurate then its okay, but there is a problem if employers are making employment decisions on arrests instead of convictions. In Delaware, we get information back from FBI and check it against state records for anything in state. We then send

information out depending on who the requestor is and the information is used to make a determination. For states outside of Delaware, FBI is adding something to that. Secretary Ranji asked Ms. Kramer what happens if an arrest comes back. Ms. Kramer responded it depends, and the Department gets information about a disposition before any decision is made. Secretary Ranji stated that ideally we would like to have records be accurate, but it is not hurting us since we are doing follow up steps.

Mr. Randisi stated he doesn't know if when someone is arrested if there is an agency or someone determining the disposition of a particular arrest, or whether or not that person was found guilty. Ms. Kramer stated the Department works with SBI. It usually rests on the person or employer to correct the information. She stated old reports are sometimes missing dispositions. Ms. Culley stated that if someone were fingerprinted today we would get information about arrests.

Secretary Ranji asked Mr. Randisi what information might be missed by the databases they use. He responded that if states aren't giving information to FBI then it is probably not going into the database either. If someone lived in a particular jurisdiction under a particular name and didn't engage in a transaction that allows the trace report to have captured their information they could be missed. Secretary Ranji asked what they are finding about court records. Mr. Randisi responded he doesn't know that there's a study that would compare what we may find in a criminal conviction search versus what's in the FBI database. He provided an example of providing FBI fingerprints and it taking 8-12 weeks for prints to turn around. Mr. Randisi stated that crimes, often misdemeanors, are identified when searching for criminal convictions. He stated he knows from experience that sometimes convictions are found that are not in the FBI

database. When looking at the incredible workload police are under, some may not get prints into database from arrests.

A Task Force member stated regardless of who you go through, how to measure the deterrent factors and the consistency of reports and background checks, how you present the information is a big piece. Mr. Randisi agreed, and stated it is also important letting people know they will be doing this search on them. A Task Force member commented that having a well-defined system is key.

Secretary Ranji then introduced Aaron Lundberg from Praesidium. Mr. Lundberg stated his company works with religious organizations, YMCA's, and for-profits among others. Praesidium does background checks but does a lot more than that. He described the way the company got started. 20 years ago a child was molested at a YMCA. Praesidium's CEO was on board of the YMCA and the board said they didn't want it to happen again, and wanted to know how it happened. The CEO's expertise was interfamilial child sexual abuse and he didn't know as much about it occurring in organizations. He compiled research, and found some bad statistics. He also began to talk to peers about managing risk and collected as many cases as he could. Peers shared somewhat helpful information, but they were treating abuse as an unpreventable risk. He started hearing things about background checks. The abuser from the YMCA had a clean history, so while background checks were a good idea it wouldn't have stopped the incident. The victim or others do not report 80% of abuse that occurs. Pennsylvania did survey of the general population of whether they've witnessed or suspected abuse. Many had witnessed but not reported it. Mr. Lundberg stated we run background checks to prevent abuse, but 80% goes unreported, and there is a question about how many of those reported end up with a criminal history. Less than 5% of offenders have a criminal history. While background checks

are important, they are a piece of the fix, but they are not the fix. Praesidium used root cause analysis for the fix. They have a safety paradigm for managing risk. It is about training and curriculum and not just how to identify risk.

Mr. Lundberg stated there are certain things you need to do to protect children, one of which is background checks. If we are saying background checks aren't that effective and there are issues with the FBI data and the data we select, we still have to do the checks. At the end of the day we need to know a registered sex offender is not taking care of children. Attorneys will say it was knowable information you could have found. We would basically be saying whatever fee is not worth the safety. While background checks are not enough, they are necessary. Mr. Lundberg stated that Praesidium got into the background record checks business 8-9 years ago because clients were saying they do everything else wanted to centralize their work. He stated they are one of the fastest growing background record check companies, and they have grown about 30% per year.

Mr. Lundberg summarized the checks Praesidium does. He stated FBI checks are expensive, but FBI sounds impressive and has face validity. A client may say they are a non-profit and have limited resources, and they want to do a name-based check. Praesidium helps clients weigh pros and cons for each situation. Mr. Lundberg stated California has a fingerprint-based check, Live Scan, and some are required to do it, while others are not. They can get it inexpensively and ask if they should do a name-based check or Live Scan. Often Praesidium will also have to supplement with name-based checks. For example, if they get arrest information without a conviction, they could have to do a supplemental check. Sex offenders may not be included in the FBI report.

The most accurate check is a name-based check at the county level. This is not done through fingerprints, but often goes up to a database. Secretary Ranji asked what makes county-based the most accurate. Mr. Lundberg responded it is how you access the information. A court runner who brings a person's name and date of birth to the courthouse may do a county-level check. Secretary Ranji stated its not that fingerprinting is inaccurate. Mr. Lundberg responded that not all county level data goes to FBI, rather only the most serious misdemeanors in the state. Ms. Dailey Lewis responded Delaware has class A, class B and unclassified. A Task Force member asked what is accessed at the county level. Mr. Lundberg responded that records start at the county level at the county courthouse, where a person was convicted. Ms. Culley stated if she saw conviction in a court, you would go to Sussex County courthouse and pull that file for information.

A Task Force member asked how we could protect against people who jump state lines. Mr. Lundberg responded that's why you don't just do a county level search. It is too limited. You have to go back 7-10 years and do a county level search everywhere a person resided plus do a multistate multijurisdictional search. This casts a wide reach when trying to get the most accurate information about where a person lived. Ms. Dailey Lewis stated it does not appear from database examples that they do Child Protection Registry checks. Mr. Lundberg stated most third party vendors do not have checks for the registry. Most cannot do it themselves. Ms. Dailey Lewis asked if Praesidium tells clients when they need to do a Child Protection Registry check. Mr. Lundberg responded yes; if clients can, then they do, typically because if they can get these checks, that usually means that these checks are required by state law. In some situations clients are allowed but not required and in those cases Praesidium will tell people what they need to take advantage of.

Secretary Ranji asked if there is a distinction between what we would see with county-level records versus statewide records. Mr. Lundberg is saying county-based is most accurate. Ms. Kramer responded we are not seeing an issue between county and state. Ms. Kramer stated when we get a hit from FBI on another state, we look at where it was, determine the county where the case would be and put it back on the individual to get the information. Secretary Ranji clarified they say to person that an arrest showed up and it doesn't have disposition. Mr. Lundberg asked to clarify who exactly goes back. Ms. Kramer stated when DSCYF gets an FBI report back they will then put it back on the applicant or employer to get the disposition. The person will not be approved until this official information is shared. The applicant or employer then gets the information and shares it back with DSCYF. Mr. Lundberg stated that going to the applicant is a good way to do it and going to the agency is next best. Attorneys advise them to not share arrest records with clients, as they do not want evidence of employers making decisions based on arrests.

Mr. Lundberg next summarized why the most accurate data is county-level. He stated Praesidium runs similar checks to what Mr. Randisi described. In response to the earlier question about do you know a person is who they say they are, the answer most often is yes. Praesidium can get aliases, names, and former names and run them through the checks Mr. Randisi spoke about. A Task Force member asked Mr. Lundberg to talk about wrap back and how rechecks are handled and if there is an industry standard on how many years between checks. Mr. Lundberg stated it depends on the industry. It used to be most saying 3 years, but now it is recommended annually. If you have a camp, for example, where employers are only seeing only employees during the summer they would recommend doing the check every year. If an employee is someone who is seen all the time it could be every couple of years for

rechecks. In some states, such as California and New York, they are notified if there are rearrests on individuals.

A question was raised about how county level records are accessed. Mr. Lundberg responded in some cases court runners retrieve the information. Some states do a good job of having counties report records in a timely matter to the state level. You may have to pay every time to access the information. Other states require a state fee to get all information from the state. Secretary Ranji asked what is included in the multi state criminal record search. Mr. Lundberg stated some people would claim it's a national check, but that's not accurate. It means running checks across lots of databases pulling from states. For some states the information include county information, sex offender records, public safety records and others. For some clients Praesidium says that's a good search for them. Other state records hardly have any reports; it might just have sex offender registry and corrections information. In those states Praesidium would say the client needs to supplement.

Secretary Ranji asked how states decide what information to share in the multi state database. Mr. Lundberg responded there is no such thing as a multi state database. Praesidium has a contract with vendors to access data from counties, or those with credit reports or other types of information. A Task Force member responded the database is multi source.

Mr. Kennealey asked if there is a reason the Child Protection Registry in Delaware can be accessed by some people and not by others, and asked if there a reason why that information isn't shared. Ms. Culley responded there is concern that information might be dumped into a large pool and then it wouldn't be a protected list. Ms. Dailey Lewis stated there would have to be statutory requirement that information not be shared. Secretary Ranji stated the registry is not a list of names and it wouldn't be able to go into a larger database. Vendors would have to check

with DSCYF for Ms. Kramer's unit to run checks. It doesn't mean that can't happen, but as of now a vendor wouldn't be able to go into the registry and look for information.

Secretary Ranji asked what vendor sources Praesidium is pulling for Delaware information on criminal history. Mr. Lundberg responded that for some states, the multi state check includes county level information. If it doesn't, then the state has closed records or doesn't release that information. Ms. Culley asked if Mr. Lundberg could provide an example of what his organization does for Mr. Kennealey's school and what guidance they provide to him. She asked what would be checked for any person who was being hired in Delaware. Mr. Lundberg stated he could show the group what they recommend via a data source list. Secretary Ranji stated that would be helpful as a follow up. A Task Force member asked if there is a tier system of different levels of checks they could do for employees, volunteers or other. For example, if there are volunteers in schools in sustained way or one time, is there a tier system you would recommend. Mr. Lundberg stated clients define how much access individuals in the organization have to children. Some clients don't want to spend \$60 on someone coming in once or twice a year. He stated those clients should at least know if registered sex offender is a volunteer. For individuals with high access to children Praesidium has a separate package of recommended searches. For lower access individuals Praesidium would look at where they live, a "confidence package."

Mr. Lundberg provided California as an example. Because Live Scan is so well known, some clients will say they can't afford so they don't do anything. Some people are taking an all or nothing approach. Praesidium's education process is to say it's not an all or nothing. They want to make sure people can afford to do the checks on the right individuals. They talk about how to use resources for training to manage risk.

Mr. Kennealey stated minutes from the last meeting shared a lot of information about what private school practices related to checks. One of the reasons Salesianum chose Praesidium was not just because of the criminal background portion, but also the other services critical to minimizing risk that a child would be abused. In some places, the idea of just checking a box that you did a particular check is enough. For Salesianum that was not enough. Praesidium provides training, policy, and screening of candidates which has been perhaps more important than the background checks in containing risk.

Secretary Ranji stated background checks are not enough for anybody. The fact that we have a Task Force to address this issue doesn't mean it will make kids safe or background checks is the best way. There are other ways to help keep kids safe that will be included in the report. Secretary Ranji acknowledged Mr. Kennealey and others for doing good work to help keep kids safe.

A Task Force member asked if training is part of a package for clients. Mr. Lundberg responded everything is individualized for each client. Mr. Kennealey responded Salesianum was using Praesidium for all of the services they offer and then switched from a different vendor for Praesidium to also do their checks. It helps to see the process from beginning to end.

A Task Force member commented that in work with mentors for Big Brother Big Sister they provide screening, training and constant supervision of mentors by staff. There are checks and balances and the multi-tier approach above and beyond background checks is helpful.

Mr. Lundberg stated it is important and encouraging that Delaware is taking the time to deal with this issue. He stated he has seen states and agencies making bad recommendations and think doing enough when they are not. Some states requirements are limited in scope and they

may not be running criminal background checks outside of their state. It is encouraging that Delaware is taking a look at the work.

4. Overview and Discussion of DSCYF Decision-making Protocol

Secretary Ranji stated the Task Force had discussed DSCYF's decision-making protocol. She provided a document describing the protocol and stated it is more of an example rather than something to take and use. The protocol is broken into two categories. There are different prohibitions based on whether someone is in the first category – DSCYF employee, contractor or foster/adoptive. The second category is individuals are licensed child care provider. The prohibitions are similar but not the same. The prohibitions were not developed at the same time. The handout provided shows prohibitions in code.

Ms. Kramer stated that for DSCYF employees, and also contractors and foster/adoptive parents the prohibitions are any convictions in Delaware code for sexually related offenses, or offenses against children or adolescents. Any time a person has one they are automatically prohibited. Under the Safe Families Act there are additional prohibitions for foster and adoptive parents, including the felonies listed in the handout. Some prohibitions are lifetime, and others are only for 5 years. Others factors are misdemeanors or felonies not included above. A person may be unsuitable and other factors are considered such as the type of crime, time since it happened, age at conviction, severity and relation to job responsibilities. Based on policies the Department follows, the Criminal History Unit makes a recommendation to the employer. The employer makes the final decision for unsuitable candidates.

Secretary Ranji asked who makes the final decision for foster and adoptive parents. Ms. Kramer responded it is the DFS Division Director. Ms. Culley acknowledged no reference to Child Protection Registry on the handout. Ms. Kramer responded they do that as well, and it

applies to the first section of the handout. Secretary Ranji asked if the registry is not required in code. Ms. Kramer responded it does not apply to prohibitions per code. DSCYF policy is that if someone is prohibited if at level 3 or 4. Ms. Culley noted that by statute it does not say a person is prohibited. Secretary Ranji stated code prohibits it for the second category but not for DSCYF employees.

Secretary Ranji stated it is sometimes obvious if a conviction is against a child, but sometimes it is not. Ms. Kramer agreed. Secretary Ranji stated the crime may not be indicated in a way where we are able to capture it and we may not see it in a prohibited offense. Secretary Ranji stated this issue recently came up for prohibitions not related to when a person was an adult. Someone in his 30's was found to be delinquent based on an assault as a minor. The incident involved the then-teenager getting into a physical fight with another teenager and charges resulted. Based on the language in statute, he is barred. An older teenager victimizing a young child is different than two 16 year olds getting into a fight. This calls into focus that a more nuanced approach may be needed.

A Task Force member responded that issue came up related to statutory rape and they added a year into the law. That could be a good model to follow. A question was then raised about cases where there is an arrest but no final disposition. Some court cases can stretch out for months or years. Ms. Kramer responded that if they see a case pending in court, they don't say the person is prohibited but they say they cannot make a decision until the case is resolved. If they see a prohibited offense and a case pending in court then the employer doesn't hire until it is resolved.

Ms. Culley asked if for DSCYF employees and foster and adoptive parents they consider cases that are unsubstantiated. Ms. Kramer responded that the interpretation from legislation is

to look at substantiated cases only. Ms. Culley asked if the Department is looking at a foster family if they would not consider any prior investigations. Ms. Kramer responded the Criminal History Unit does not, but DFS may. Under law the Criminal History Unit is just supposed to look at substantiations.

Ms. Kramer stated that for child care providers, which includes child care centers, family child care, large family child care and license exempt relative providers, prohibitions include any offense in Delaware code sections as well as sexually related offenses. Being on the registry at level 3 or 4 is a prohibition. There is also a seven-year prohibition if convicted of a crime against a child. Secretary Ranji stated a person can get on the registry at level 3 or 4 based on civil substantiation, and they can also get on with certain criminal convictions.

A Task Force member asked if a person is working for a child care provider and they go to a new provider do they have to get re-checked. Ms. Kramer responded a person used to be able to work with different providers for up to 5 years without a re-check. The Department has since taken that out. Now each child care facility must re-fingerprint all new staff. A Task Force member asked how a person follows up on that. Ms. Kramer responded the Office of Child Care Licensing (OCCL) checks providers' files to make sure. Providers have to follow Delaware regulations. Secretary Ranji stated that during licensing inspections they check to see if providers have done the required checks. Licensing inspections take place yearly.

Ms. Kramer continued to describe child care prohibitions, noting the handout lists offenses that are also not prohibited but considered unsuitable. The Department looks at the type, frequency, person's age at the time and severity. Child care providers get FBI information but not SBI. The Criminal History Unit can inform a provider of offenses. At the time of a call the Criminal History Unit asks the employer to note the call was made and lets them know they must

also put in the file that they don't have concern about the person being hired being a risk. Ms. Kramer stated that the licensing administrator would make a decision for family child care and large family child care homes about unsuitability. OCCL has discretion for whether or not they can keep the employee. For child care centers, the employer uses discretion to determine if unsuitable. If a person is prohibited the Department will often go to the facility to make sure the employee was terminated.

Secretary Ranji stated she wanted to share the protocol because it gives an example of what code requires. The Task Force will make recommendations on things that got missed, and figure out where it doesn't make sense to treat certain categories of employees differently.

A summary of prohibitions for individuals/employees was distributed to Task Force members to review between meetings. The summary shows language from code or regulation stating what prohibits each category of employees or individuals from employment. The categories were pulled out of code. Down the left side of the chart are the various types of potential employees or those who work with children. X's indicate which prohibitions apply for each type of employment. Prohibitions are different in many cases. The prohibitions range from convictions to child sexual abuse, or being on the registry and at the other end, theft-related misdemeanors in last two years, or consumer fraud. As part of its recommendations the Task Force will talk about whether and how to set a baseline that says regardless which category of employee if you are working with children then here are the prohibitions that may apply. There may be some cases that apply beyond the baseline, for example consumer fraud or theft, because they may be relevant in some cases and not for others. Secretary Ranji stated she wanted to share the document to look at before getting into the recommendations discussion. Ms. Culley stated this is the best way we've seen the information. She asked if we can put headers on every

page of the document, and Secretary Ranji responded yes. A Task Force member commented the information is helpful, and she noted what stands out is what is not required for bus drivers. Secretary Ranji clarified the footnote lists the prohibited crimes for bus drivers. Ms. Bagatta-Bowles asked if there is a category for felonies against the elderly or impaired adults. Secretary Ranji responded yes. Code and regulations may refer to prohibitions differently, so there is some overlap between categories at the top of the table. The table shows what is in the code now and it is hard to assimilate all of those things together. We need to look at the categories of employees and see what's not prohibited and see if it's picked up somewhere else.

Secretary Ranji noted that just because one box is checked it does not necessarily mean that other categories do not apply. For example, the regulation for bus drivers references Delaware code. Those prohibitions are in a footnote rather than checked in other boxes across the table because the combination of prohibitions is unique to bus drivers.

A Task Force member asked if the document was updated for everything in the 147 general assembly. Secretary Ranji responded yes. Crimes substantially related to work is the second category to the right.

5. Overview and Discussion of Consolidated Background Check Unit

Secretary Ranji stated that earlier in the Task Force process they had a presentation from someone at DHSS who talked about what they've done with consolidating background record checks for their unit. One of the things discussed at the meeting was whether there is a way on the child protection side to get everything together from a technology perspective.

Ms. Culley stated she served on a task force in 2002 to revamp the Child Protection Registry. Consumers are supposed to be using the registry, but the law can be confusing. She stated it would be great to create something like Praesidium and she acknowledged she didn't know they

existed before today. Ms. Culley proposed a consolidated background checks unit be not just for the child-serving community, but also for vulnerable adults. It could be a one-stop shop. For example, if someone is hiring a babysitter in their home, they wouldn't have to call criminal history for a Child Protection Registry check and know about SBI and FBI. They could go to the background check unit, tell them why they are requesting a report and to find out the costs. The unit would house information from SBI, the sex offender registry, Child Protection Registry, and the Adult Abuse Registry - everything in one place. The average citizen could feel confident that they got a good background check and there was one way of doing it. For public schools Ms. Kramer does registry checks, and SBI information is sent back to schools. Child care providers are done a different way. That doesn't take into account private schools or others who are not mandated but want to run check.

Secretary Ranji agreed a one-stop shop would be great, particularly if we could get everything to make sense and put into a dashboard. DHSS is an example, and there may be a next step toward that. She stated she wants to be cautious, because a lot of problems are not about having a one-stop shop. Cost and other challenges about what's better and how it's done are factors - FBI, wrap back, and consistency of checks are all issues that will still remain. A one-stop shop won't be the cure all. Addressing inconsistencies and ensuring the most accurate backbone are the things we have to fix regardless. If we did a consolidated unit we would have to wrap in DHSS' program and build on it.

Task Force members agreed a consolidated unit is a good idea. A Task Force member stated there could be a cost deterrent and suggested we look at privatizing that function. It might be more cost effective than building another unit in state government. Another Task Force member commented that getting inconsistencies worked out is important, and then looking at

consolidation at the next phase. There was agreement that privatizing that function could save money. Mr. Kennealey asked if there is there a model of other states who have something like this and where we could pull some good ideas from. Secretary Ranji stated she was not sure if others have done a privatized and consolidated unit. Ms. Culley stated she doesn't think so, as we don't have the issues that most states have. Delaware's SBI system is really good. If you have a Delaware criminal history you can feel confident it's right. If you have FBI information come back an incomplete piece, you can feel confident the state will get to the bottom of it. She also stated she would be open to privatization. Her concern would be as a state we would have to get there, as the state currently will not let criminal records be public. Ms. Culley continued to state most states charge a fee to get into their SBI system. Right now if employees look up people, they can get fired. Delaware's process can't deter their recommendations. She also stated concern about how information in the Child Protection Registry would be protected. Those questions would have to be addressed by the system. Secretary Ranji stated the Child Protection Registry system is not publicly accessible. It exists as a DSCYF database. It would have to become a registry, probably still without public access. Secretary Ranji stated it would be interesting to take 6 months and look at people who are applying to positions and have their background checks run through private providers as well as the Delaware system. It would be interesting to see pros and cons and get a sense of how they come back. Ms. Bagatta-Bowles stated she has worked with both Randisi and Praesidium. Praesidium did a risk management project for thousands of dollars. They used Randisi for 9 months for background record checks. She stated she would volunteer that they could use them if want to do what Secretary Ranji proposed. She also noted they plan to run big group of staff prior to summer camp next year.

Finally, she stated they do everything they can and don't feel confident they are finding everything.

Ms. Kramer stated they have gotten calls from organizations that use private companies saying they missed things. She provided an example of someone convicted of manslaughter or murder, and a private company got results back saying the person was fine to work there. It turns out it was against a child. The employer remembered because she was working at the department for some time and remembered when the incident occurred. This employee was missed because the private company didn't have fingerprints. Secretary Ranji asked why it was missed. Ms. Kramer responded it was missed because the company just did a name check. Ms. Kramer stated some people have multiple dates of births and social security numbers listed. Those people who are trying to escape something are best at it. Ms. Bagatta-Bowles stated for hiring agencies it doesn't mean live reference checks or policies are any less important.

Secretary Ranji stated on the DHSS side, in order to maintain the consolidated unit they are charging fee and trying to create efficiencies. Ms. Culley stated she would recommend the unit be housed within the Department of Homeland Security.

6. Exploring Potential Task Force Recommendations

A draft list of possible baseline prohibitions was distributed, along with a summary of possible areas for Task Force recommendations. Secretary Ranji stated these document are not recommendations, but rather items to discuss at the October Task Force meeting.

7. Next Steps

The Task Force will discuss prohibition inconsistencies and Task Force recommendations at the next meeting.

8. Public Comment

No public comment.

9. Adjournment