THE PHILADELPHIA PARKING AUTHORITY

In Re: Philadelphia Taxicab and Limousine Regulations Image Retention and Use : Docket No. 126-10

FINAL RULEMAKING ORDER

BY THE AUTHORITY:

The Authority is the sole regulator of all taxicab and limousine service in Philadelphia. In furtherance of those regulatory functions, the Authority issued a proposed regulation at this docket number on August 27, 2014. The initial public comment period for this rulemaking proceeding concluded on Dec 15, 2014, without receipt of comments. The Independent Regulatory Review Commission (“IRRC”) submitted its comments on January 14, 2015. The Authority has completed its review of the comments and now issues the final-form regulation.

Purpose of the Final-Form Regulation

All taxicabs in Philadelphia will be equipped with safety cameras. Those cameras will capture images related to taxicab service to deter crimes against drivers, assist in the investigation of alleged crimes and regulatory violations and bad behavior in general. In most cases, images recorded by these safety cameras will be stored locally and overwritten on a scheduled basis. The local images will be secure within a hard drive or “black box” in the taxicab. A black box is accessible only by Authority’s Taxicab and Limousine Division Enforcement Department.

While the current regulation requires certain images from a taxicab’s safety camera to be transmitted to both the Authority and the taxicab’s dispatcher to assist

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in law enforcement response times and investigations, the Authority has approved a proposed regulation (Docket No. 126-12), which will eliminate that transmission requirement. The Authority has also granted the taxicab industry a waiver from compliance with that transmission requirement, pending final approval of regulation 126-12.

The proposed regulation establishes requirements related to the limited retention of safety cameras images when physically accessed by the Enforcement Department. The regulation also clarifies the scenarios in which the Authority will access a safety camera’s stored images.

B. The regulation.

We propose amending the proposed regulatory language to provide guidance and limitations upon the use and retention of images captured by safety camera systems and to prohibit the inappropriate activation of the taxicab distress button, as follows:

DISCUSSION

The Authority has reviewed IRRC’s comment to the proposed regulation and has modified the proposed regulation in response and otherwise, as provided below. There were no public comments.

§ 1017.78. Use of Captured images.

Section 1017.78 of the final-form regulation has been amended to delete all references to dispatchers, which constituted a significant portion of the regulation. The final-form regulation does not provide for a scenario in which the dispatcher will have access to or ever come into possession of any image recorded by a safety camera.
Subsection (b). This subsection has been amended to add reference to subsection (e), which also provides for the release of captured images.

Subsection (c). This subsection has been amended to identify the proposed language as paragraph (1) and to add new language under paragraph (2). Because the final-form regulation no longer provides for a system that transmits safety camera images from the taxicab to anyone, the only way to view images will be through physical access to the black box, which requires an encrypted access key. The restriction in the proposed regulation limiting access to the black box to the Authority’s Enforcement Department has not changed.

Paragraph (2) establishes limitations upon access to images retained on a taxicab’s black box. Access will be limited to scenarios involving a court order, a request from a law enforcement agency or an active administrative investigation when written authorization to access the black box has been provided by the Manager of the Enforcement Department or Trial Counsel. This limitation upon the Authority’s access to images on the black box will create a record of instances where such access is necessary and clearly prohibits random review of stored images by anyone, including the Authority.

Subsection (e). IRRC questioned when images released to law enforcement will be deleted by the Authority. Preliminarily, the proposed regulation provided that every image recovered by the Authority must be deleted 31 days from the date first obtained, unless an enumerated reason necessitated retention existed. That language has been retained in the final-form regulation.

The final-form regulation includes new paragraphs numbered (3) and (4). These paragraphs provide that images excluded from deletion pursuant to the preceding language in this subsection will be deleted within 1 year of the final disposition of the related administrative or criminal proceeding. This language addresses the fact that these matters may remain active in the courts or before other
tribunals long after the 31 day deletion period, but also creates a definitive end date for retention.

Paragraph (4) provides that images connected to a successful criminal prosecution or finding of administrative liability may be retained for up to 5 years or longer if good cause is found by a presiding officer in the Adjudication Department after notice to the relevant party. The presiding officer’s decision is subject to appeal as provided in 52 Pa. Code §§ 1005.184 and 1005.211 (relating to authority of presiding officer; and exceptions to recommended decisions).

Images subject to this heightened retention duration will not be evidence to a potential bad act, but evidence used to prove that a bad act actually did occur. The images will have already been publicly displayed in a court of law or in an administrative hearing in open courtrooms, released to private defense attorneys and subject to media publication. For these reasons, we find that privacy concerns related to these images will nearly always be unwarranted, although the Authority will continually be bound to hold these images in a confidential manner as provided in subsection (b).

Subsection (g). Subsection (g) has been added to delineate images captured during system certification from those related to an investigation or otherwise active safety camera system. As provided in Section 1017.71(b), before a taxicab may enter operation with a new safety camera system it must be inspected by the Authority. In order to make certain that the camera system works, the Enforcement Department will cause events intended to triggering the safety camera’s recording sequence then check the black box to make sure it works.

This testing is completed at Authority facilities. The images captured will show an empty taxicab, but will be saved to evidence that the system worked properly upon introduction to service.
Affected Parties.

The regulation will affect taxicab owners, drivers and those who travel in taxicabs.

Fiscal Impact.

The final-form regulation will have no fiscal impact or increase any paperwork obligation as to any party, the Commonwealth, any political subdivisions, private sector person or the general public.

Effective Date and Conclusion


THEREFORE,

IT IS ORDERED THAT:

1. The Authority hereby adopts the final regulation in Annex A.
2. The Executive Director shall cause this order and Annex A to be submitted to the Office of Attorney General for approval as to legality.

3. The Executive Director shall cause this order and Annex A to be submitted for review by the designated standing committees of both Houses of the General Assembly, and for formal review by the Independent Regulatory Review Commission.

4. The Executive Director shall cause this order and Annex A to be submitted for review by the Governor's Budget Office for review of fiscal impact.

5. The Executive Director shall cause this order and Annex A to be deposited with the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

6. The Executive Director shall serve copies of this order and Annex “A” upon each of the commentators and take all other actions necessary to successfully complete the promulgation of this regulation.


8. The contact person for this rulemaking is Dennis G. Weldon, Jr., General Counsel, (215)-683-9630.

THE PHILADELPHIA PARKING AUTHORITY

[Signature]
Joseph T. Ashdale
Chairman
(SEAL)

ORDER ADOPTED: June 25, 2015
ORDER ENTERED: June 25, 2015

Certified:

[Signature]
Alfred W. Taubenberger
Vice-Chairman/Secretary
(SEAL)
ANNEX “A”
1017.78. Use of Captured images.

(a) **Purpose.** The purpose of a safety camera system is to discourage bad acts in taxicabs in furtherance of protecting the health and safety of taxicab drivers and the public.

(b) **Prohibitions.** Images from a safety camera system shall be maintained in the strictest of confidentiality and may not be duplicated, released or disclosed except as provided in subsections (e) and (f).

(c) **Local storage device.**

(1) Data storage devices secured in a taxicab as provided in § 1017.74 (h) (relating to safety camera requirements) shall be configured to overwrite recorded images at intervals not to exceed 60 days. Only the Enforcement Department may access images stored on the data storage devices.

(2) THE AUTHORITY WILL ACCESS IMAGES ON THE DATA STORAGE DEVICES SECURED IN A TAXICAB ONLY IN THE FOLLOWING CIRCUMSTANCES:

i) UPON DIRECTION OF A COURT OF LAW.

ii) UPON DIRECTION OF A LAW ENFORCEMENT AGENCY.

iii) IN FURTHERANCE OF AN EXISTING ADMINISTRATIVE INVESTIGATION WHEN AUTHORIZED IN WRITING BY THE MANAGER OF ENFORCEMENT OR TRIAL COUNSEL.

(d) **Maintenance of captured images.**

(1) Each dispatcher shall identify at least one, but no more than three, key employees to be responsible for the security of images transmitted to the dispatcher as provided in § 1017.74 (relating to safety camera requirements) on the Form No. DSP 4 as provided in § 1019.9 (relating to list of affiliated taxicabs). The dispatcher shall maintain safety camera system images in password-protected files accessible only by the key employee or employees.
(2) Images from a safety camera system in the possession of the Authority will be maintained and secured by the Enforcement Department in password protected files.

(e) Deletion of captured images.

(1) A dispatcher shall delete safety camera system images on the 31st day after receipt, unless one or more of the following applies:

(i) The dispatcher is directed, in writing, by the Enforcement Department to withhold designated images from deletion.

(ii) The dispatcher is directed, in writing, by a law enforcement agency to withhold designated images from deletion.

(2) The Enforcement Department shall delete safety camera system images on the 31st day after receipt, unless one or more of the following applies:

(i) The image contains evidence of criminal activity.

(ii) The image contains evidence related to a regulatory investigation or complaint.

(iii) A law enforcement agency has requested, in writing, that the image be retained.

(3)(2) The Enforcement Department shall maintain a log of all images excluded from deletion as provided in subparagraphs (i) through (iii), including reference to matters necessitating retention and the date each image is ultimately deleted.

(3) EXCEPT AS PROVIDED IN PARAGRAPH (4), ALL IMAGES EXCLUDED FROM DELETION AS PROVIDED IN SUBPARAGRAPHS (I) THROUGH (III), SHALL BE DELETED WITHIN ONE YEAR OF THE FINAL DISPOSITION OF THE RELATED ADMINISTRATIVE OR CRIMINAL PROCEEDING.

(4) IMAGES RETAINED BY THE AUTHORITY FOR USE AS EVIDENCE IN A PROCEEDING THAT RESULTS IN A CRIMINAL CONVICTION OR FINDING OF ADMINISTRATIVE LIABILITY SHALL BE DELETED WITHIN FIVE YEARS OF THE FINAL DISPOSITION OF THE RELATED PROCEEDING. THE ENFORCEMENT DEPARTMENT MAY PETITION A
PRESIDING OFFICER IN THE ADJUDICATION DEPARTMENT FOR AUTHORIZATION TO EXTEND THIS RETENTION PERIOD, FOR AN IDENTIFIED PERIOD, UPON GOOD CAUSE SHOWN AND NOTICE TO THE PERSON CONVICTED OR FOUND LIABLE IN AN ADMINISTRATIVE PROCEEDING.

(f) Release of captured images.

(1) A dispatcher shall release safety camera system images to the Enforcement Department or a law enforcement agency upon written request.

(2) The Authority will release safety camera system images to a law enforcement agency upon written request.

(g) SYSTEM TESTING. THIS SECTION SHALL NOT BE INTERPRETED TO PRECLUDE THE RECOVERY AND STORAGE OF IMAGES BY THE AUTHORITY AS PROVIDED IN § 1017.71(B) (RELATING TO TAXICAB SAFETY CAMERAS).

§ 1021.12. Additional requirements.

(a) Each taxicab driver shall know the rights and limitations of any taxicab used to provide taxicab service, including the geographical limitation of partial-rights taxicabs, if applicable.

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(g) A taxicab driver may not activate the distress button required under § 1017.24(d)(8) except when the driver is in need of emergency assistance by law enforcement or other emergency responders.