



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CAL**

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Order Instituting Rulemaking on Regulations  
Relating to Passenger Carriers, Ridesharing,  
And New Online-Enabled Transportation  
Services

R.12-12-011

**REPLY COMMENTS OF SAN FRANCISCO INTERNATIONAL AIRPORT AND SAN  
FRANCISCO MUNICIPAL TRANSPORTATION AGENCY TO ASSIGNED  
COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING  
COMMENT ON THE APPROPRIATE BACKGROUND CHECK REQUIREMENTS  
FOR TRANSPORTATION NETWORK COMPANY DRIVERS WHO TRANSPORT  
UNACCOMPANIED MINORS**

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These reply comments are submitted on behalf of the San Francisco International Airport (“SFO” or “Airport”) and the San Francisco Municipal Transportation Agency (“SFMTA”), collectively “the City,” in response to opening comments of other parties to the Assigned Commissioner and Administrative Law Judge’s Ruling Requesting Comment on the Appropriate Background Check Requirements for Transportation Network Company Drivers who Transport Unaccompanied Minors.

**THE COMMISSION SHOULD REQUIRE TNCs TRANSPORTING UNACCOMPANIED MINORS TO USE THE TRUSTLINE REGISTRY**

The City appreciates and supports the thoughtful comments presented by Hop/Skip/Drive, urges the Commission to adopt its approach and requests the Commission consider the following:

California law does not require a criminal conviction to exclude an individual from the Trustline Registry. Two sources of information are used to determine whether an individual is suitable for placement in the Trustline Registry – a completed application and fingerprints. The name alone can disqualify an applicant from being included in the Trustline Registry.

**1. Disqualification Based On The Child Abuse Central Index**

Before an individual is cleared to be on the Trustline Registry, Trustline checks applicant names against the Child Abuse Central Index (CACI), a database of individuals who have been investigated for child abuse and/or neglect, but may not have a criminal conviction.

California requires 44 different categories of professionals and agencies to report child abuse and neglect. (Cal. Penal Code § 11165.7) Failure to report by a “mandatory reporter” is a criminal offense. (Cal. Penal Code § 11166(c).) Reports of suspected abuse or neglect are made to county welfare departments, county sheriffs or local police and, depending on the county, to the county probation department; and the responsible agency conducts an investigation. (Cal. Penal Code § 11165.9) Where a report of child abuse or neglect is substantiated, it is reported to

the DOJ and the individual named in the substantiated report is placed in the CACI database.

(Cal. Penal Code § 11169(a).)

A “substantiated report” means:

... a report that is determined by the investigator who conducted the investigation to constitute child abuse or neglect, as defined in [Section 11165.6](#), based upon evidence that makes it *more likely than not that child abuse or neglect, as defined, occurred*. A substantiated report shall not include a report where the investigator who conducted the investigation found the report to be false, inherently improbable, to involve an accidental injury, or to not constitute child abuse or neglect as defined in [Section 11165.6](#).

(Cal. Penal Code § 11165.12(b); emphasis added.)

Nothing in the mandatory reporting and investigation statutory scheme requires that the subject of a substantiated report be arrested, fingerprinted or criminally prosecuted.

## **2. The CACI Database Is Not Accessible To TNCs Or Their Contractors**

Access to the CACI database is limited by statute. Authorized agencies and individuals include public agencies investigating child abuse or neglect, private individuals or agencies contracted by the Department of Social Services or county agencies for purposes of issuing and assessing licensed child care facilities, certain personnel in hospitals, law enforcement agencies conducting child abuse investigations, adoption agencies, and county coroners. (*See* Cal. Penal Code §§ 11167.5, 11170 and 11170.5.)

Background check services like those used by Shuddle have no means of accessing the CACI database and so TNCs that transport unaccompanied minors may be unwittingly matching child predators who have evaded criminal prosecution with the children of parents who may not even be aware of the CACI database. This exposes children to potential abusers and TNCs to potential liability. It is an unacceptable risk to public safety.

## **3. Fingerprints Should Be Step One In Any Criminal History Check**

Fingerprints are unique to an individual and do not change over time.

([https://www.fbi.gov/about-us/cjis/fingerprints\\_biometrics](https://www.fbi.gov/about-us/cjis/fingerprints_biometrics); <https://oag.ca.gov/fingerprints>.) The DOJ maintains the State’s criminal history record database and can search the database and

return results within 48 to 72 hours if there is no match. It also sends fingerprints to the FBI for searches of national databases. (See <https://oag.ca.gov/fingerprints>.)

If there is a match, the process slows down, as it should. A match may indicate that an individual has a disqualifying criminal record. If there is no match, then an applicant's name can promptly go onto the Trustline registry.

### **CONCLUSION**

The City concurs with the comments of Hop/Skip/Drive.

Trustline provides the minimum background check for entities specializing in the transportation of unaccompanied minors. The Commission recognized this in its 1997 Decision when it required PSC drivers to be on the Trustline Registry. That Decision has equal applicability to TNCs like Shuddle and Hop/Skip/Drive. The CACI database, fingerprint-based criminal history check and rap-back requirements for subsequent arrests make the Trustline Registry the most secure background check presently available for entities specializing in the transportation of unaccompanied minors.

However, because Trustline is not required to search out-of-state records, the Commission should require applicable TNCs to conduct supplemental background checks. Criminal records should be searched in every state in which a driver applicant has resided over the past seven years, and in every state in which the FBI reports a fingerprint match. Residential histories should be established through name and social security number cross referenced with public records of every state.

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Finally, if other states have a database similar to CACI, efforts should be made to determine if there is a method for the Commission, a California law enforcement agency or the Department of Human Services to check applicant names against those databases.

Dated: November 23, 2015

Respectfully submitted,

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