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

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

R.12-12-011

**OPENING 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 opening 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 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.

INTRODUCTION AND SUMMARY OF COMMENTS

The City supports the Commission's inquiry into whether the Trustline registry process, which requires the applicant to complete a Live Scan request form, provides sufficient background information to protect the public. If the Commission determines that it does not, and that another background check protocol may provide additional relevant information, the City urges the Commission to require use of such protocol in addition to the Trustline registry process. The City supports use of the Trustline registry process for two reasons. First, it provides access to state and federal criminal history and child abuse databases that are not available to private entities performing background checks. Second, it relies on fingerprints, which means that a dangerous individual cannot pass a background check, and be cleared to transport unaccompanied minors, by the simple expedient of using a false name and social security number.

QUESTIONS PRESENTED

The Assigned Commissioner and Administrative Law Judge ask four questions, which the City answers in the order presented.

1. Should the California Public Utilities Commission (Commission) require that any TNC intending to retain drivers to transport unaccompanied minors ensure that each driver successfully complete the Trustline Registry application and the Live Scan request forms in order to become a driver for that TNC?

Yes. Based on the Safety and Enforcement Division's ("SED") background paper on the Trustline Registry process -- Appendix A to the instant Ruling, Trustline is uniquely qualified to perform background checks of potential TNC drivers who transport unaccompanied minors. As the SED describes in Appendix A, Trustline, which is administered by the California Department of Social Services ("CDSS"), uses both an applicant's fingerprints and name to conduct searches of California and Federal Bureau of Investigation criminal history and child abuse databases that are not accessible to the general public.

The CDSS checks Trustline applicants' names against the Child Abuse Central Index (CACI). The CACI is described by the California Department of Justice ("CA DOJ") as a tool used by law to identify suspects by cross matching names against substantiated reports of child abuse.¹ A report is "substantiated" if the investigation resulting from the report concludes that the evidence "makes it more likely than not that child abuse or neglect, as defined, occurred."² The information in CACI is confidential and can only be provided to entities authorized to receive it under Penal Code Sections 11167.5, 11170 and 11170.5.³ The Penal Code does not permit access to the CACI database by commercial background investigators.

The CDSS also uses applicant fingerprints to detect prior criminal histories. The CDSS submits the fingerprints to the CA DOJ, which maintains the statewide criminal record repository for the State of California, compiling records of arrest and prosecution, or "RAP sheets," for law enforcement and regulatory purposes. RAP sheets are based on fingerprint submissions, and therefore positively identified biometrically. This process ensures that a person's unique identity is confirmed.⁴ In addition to using the applicant's fingerprints to search California's criminal

¹ <https://oag.ca.gov/childabuse>

² <https://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/bcia05-02.pdf>

³ https://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/OAL_approval_final_text.pdf

⁴ <https://oag.ca.gov/fingerprints>

history databases, the CA DOJ also forwards the fingerprints to the FBI, which uses the prints to conduct a search of its nationwide criminal history database.

2. Does the Trustline registry process provide sufficient background information? Explain your response.

SED's report indicates that Trustline's registry process provides sufficient background information to protect the public. But should the Commission determine as a result of this inquiry that the Trustline system may not always reveal an applicant's complete criminal history or history of child abuse, and that another background check protocol may provide additional information, the Commission should order TNCs that provide service to unaccompanied minors to utilize that protocol in addition to the Trustline registry. The Commission should not permit the use of such a protocol as an alternative to the Trustline registry system because only the Trustline registry system can access the CA DOJ, FBI, and CACI databases, and the Trustline registry system requires fingerprinting (completion of a Live Scan request form).

3. Should the Commission allow any TNC, who intends to retain drivers to transport unaccompanied minors, perform a background check for each driver that is different from the Trustline registry process? If so:
 - a. Identify and describe with specificity the steps in an alternative proposed background check protocol, including but not limited to the databases reviewed, the individual history reviewed, the years for which the review is conducted, and the confidentiality provisions of the protocol;
 - b. Identify which steps in an alternative proposed background check protocol would be performed by the entity licensed by the CPUC and which would be performed by a third-party provider of background check services;
 - c. Identify how, where a TNC entity seeks to use an alternative proposed background check protocol, a member of the public can access information about an individual either during the background check process or once the individual has become a driver transporting unaccompanied minors;
 - d. Explain how the alternative proposed background check protocol meets or exceeds the information developed during the Trustline registry process;
 - e. Identify all jurisdictions and contexts where the alternative proposed background check protocol has been implemented to meet a regulatory requirement related to adults working with unaccompanied minors, and cite the regulatory requirement;

- f. Identify the approximate cost and time required for the alternative background check protocol;
- g. Explain how the Commission can review and enforce a licensed entity's compliance with an alternative proposed background check protocol, where some of the steps in the protocol are performed by a third-party non-public provider

As noted above, if the Commission identifies additional background check protocols that will improve the Trustline registry system and result in a more thorough background check, the Commission should order TNCs that transport unaccompanied minors to utilize such protocols in addition to, not in lieu of, the Trustline registry system. The City is particularly concerned that such alternative protocols may not include mandatory fingerprinting of driver applicants and submission of those fingerprints to the CA DOJ and the FBI.

Throughout these proceedings, the City has consistently urged the Commission to require that all TNCs perform criminal background checks based on fingerprints, not solely on names and social security numbers or other identifying numbers. Identity theft accomplished through accessing an individual's social security number or other personal data is now a commonplace occurrence.⁵ Therefore, a background check based on fingerprints or other biometric is necessary to ensure that a driver applicant with a disqualifying criminal history, or history of child abuse, is unable to pass a background check by using another individual's identity.⁶

4. Should the Commission permit all licensed transportation entities, including TNCs, TCPs, and PCSs, that transport unaccompanied minors, to select between Trustline and a second background check protocol, if the Commission determined that a second protocol is sufficient to meet the Commission's requirements?

⁵ See <http://www.justice.gov/criminal-fraud/identity-theft/identity-theft-and-identity-fraud>.

⁶There are many resources available to individuals wishing to engage in identity theft to conceal their criminal histories. See, for example, lifehacker.com/5822345/how-to-steal-a-dead-persons-identity; www.flyvision.org/cia/identity/ariza/id_faq.htm; www.wikihow.com › ... › Categories › Personal Care and Style; www.ariza-research.com/new-id/; www.bombshock.com › Fake IDs; [https://en.wikipedia.org/wiki/Ghosting_\(identity_theft\)](https://en.wikipedia.org/wiki/Ghosting_(identity_theft))www.about-the-web.com/shtml/reports/new_personal_identity.shtml.

