CPUC Background Check Workshop
R. 12-12-011
Presentation of Joseph Okpaku, Vice President, Government Relations, Lyft
February 17, 2017
10:15 a.m. - 11:15 a.m.

Good morning Commissioner Randolph, Judge Mason, and Commission Staff:

Thank you for inviting Lyft to participate in this workshop. My name is Joseph Okpaku, and I am the Vice President of Government Relations for Lyft. We are glad to assist the Commission with this process and to have the opportunity to explain why we believe our comprehensive background check processes ensure the safety of all of our passengers. We believe the groundbreaking TNC regulations first established by this body in 2013[1] and, adopted by 38 states across the country, ensure public safety with respect to background checks. and there is no need to revise or revisit them.

Safety has always been, and will always be, our top priority at Lyft. Our goal is to make every ride safe, comfortable, and reliable. Our riders use Lyft because they feel secure with our drivers, which is a product of this commitment.

This commitment has been proven through our innovative approach to safety. We employ a comprehensive background check process that I will discuss in detail today. We also use technological enhancements to revolutionize the transparency and immediate accountability of a ride for hire, and I will discuss that as well.

Our background check process is at the core of our reputation. We have developed a robust, multi-layered name-based background check process that is not only fully compliant with the Commission's current background check rules, but also has critical advantages not found in fingerprint-based background checks.

In fact, the Maryland Public Service Commission recently found that, as a matter of law, Lyft's background checks were at least as comprehensive and accurate as fingerprinting. After a months long process that involved thousands of pages of documentary evidence, and days of expert testimony, the Maryland PSC concluded there was no need to impose a fingerprinting requirement in light of the processes we already use.

Additionally, our background check process has been audited independently by the San Diego County Regional Airport Authority and the San Jose Airport, and in both instances our audited drivers overwhelmingly passed the background checks demonstrating the success of our process.

As I explain our processes, one thing that you will hear me refer to many times is the issue of county criminal disposition records. The reason why--and I believe that all of the experts you have here today will agree on this point--is that the place where you are

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[1] CPUC's TNC Decision 13-09-045 September 19, 2013

going to find the most accurate and up to date criminal records is in the county where the conviction, dismissal or acquittal occurred. Our processes are designed to ensure that we have the most accurate, up to date criminal disposition data by always and repeatedly searching thousands of county records, even doing so by hand if necessary, to make sure we have the latest information about our driver applicants.

Our background check process begins with an applicant submitting his or her name, photo, Social Security Number, driver's license number, a photo of the driver's license, date of birth, address, phone number, email address, vehicle information, and auto insurance information.

Once Lyft receives this information, we compare the applicant photo to the photo on the driver's license. This is the first of several identity verification safeguards throughout the Lyft background check process. If the photos match, we run the applicant's driver's license number through a driving record check database maintained by Samba Safety, the leading provider of driver risk management software in North America. If the name that Samba Safety generates after running the driver's license does not match the applicant's name, we will contact the applicant to confirm that we have the correct information.

A driver is ineligible to drive for Lyft if the driving record check reveals:
- More than three moving violations in the past three years, such as an accident or a traffic light violation, or
- A major moving violation in the past three years, such as driving on a suspended license or reckless driving, or
- A DUI or other drug-related driving violation in the last seven years, or
- Any driving-related convictions in the last seven years, such as a hit and run.

Once the applicant passes the driving record check, we then submit the applicant's name, date of birth, and social security number electronically through a secure portal to Sterling Talent Solutions, which is the leading provider of background checks for 25% of Fortune 100 companies and numerous municipalities across the country. Sterling is also accredited by the National Association of Professional Background Screeners, which requires a rigorous audit of its procedures and policies by an independent auditor appointed by the Background Screen Credentialing Council (BSCC). Commercial background check providers such as Sterling are regulated by federal law under the Fair Credit Reporting Act, which requires them to employ, and I quote, "procedures to assure maximum possible accuracy."

Sterling begins the background check process by searching the Social Security Number Trace database to find out addresses where an applicant may have lived. The Social Security Trace is a private database that contains hundreds of sources to find these addresses, including all credit bureaus, voter registrations, property deeds and mortgages, vehicle registrations and licenses, US Postal Service records, utility bills, and other public sources. This search produces a history of past and present addresses associated with the applicant's unique identifiers. In other words, this gives

Sterling the data they need to find out which counties to search for the most up to date information on the applicant.

Using the applicant's past and present addresses, Sterling searches, in real-time, the county criminal records in all of the counties for which there's an address. The Social Security Number trace is the first of several databases that Sterling uses to determine the counties where an applicant may have a criminal record.

Sterling also searches two other important databases: the United States Department of Justice Sex Offender Registry and the Federal Criminal Records database, both of which Lyft used as search tools long before they were required by law. These databases are not dependent on the Social Security Trace. They are additional methods of searching counties other than those in which the applicant has lived or worked. If these two searches yield any potential records in any county or federal jurisdiction, Sterling will again search the relevant county or federal jurisdiction for the most up to date information on those records.

Sterling also uses a proprietary database known as the Enhanced Nationwide Criminal Search, which is a private database that is comprised of thousands of data sources, including county criminal records, state repositories, state department of corrections records, and national security databases. This is the fourth separate database that Sterling employs, and again, Sterling will search any relevant county criminal records to confirm the information found during this part of the process.

Lastly, Sterling searches a fifth database known as Locator Select, which is a private database that specifically searches records from booking and incarceration locations for both dispositions and pending cases. Once again, after searching these databases, researchers from Sterling cross-check the database results by reviewing local county records.

I have mentioned the importance of county records numerous times. The issue of county records has a critical significance with respect to fingerprint-based checks as well, but not in the way people might expect.

Fingerprint databases are known as secondary sources for criminal information. This means that fingerprint databases are generally reliant upon law enforcement and courthouse staff at the county level to upload the fingerprints and any subsequent case history for each offense and input this data into the database. So if a county where a conviction occurs doesn't transmit that information in a timely manner, a conviction could easily be missed via a fingerprint check.

There is an additional challenge with using a fingerprint database in California -- if there is no case disposition that can be tied to the fingerprint, then the criminal history cannot be reported. This means that using a fingerprinting approach could lead to crimes going unreported despite the arrest resulting in a conviction. Thus, it makes much more sense to start the search directly at the source of the dispositions--which is the county criminal records.

It is important to note that this it is not simply Lyft's opinion that fingerprint-based background checks contains significant shortfalls. The U.S. Department of Justice testified before Congress that one-quarter of all crimes committed in the U.S. do not have associated fingerprint records, and therefore will not be located by a fingerprint background check. And a 2006 report by the U.S. Attorney General's Office on Criminal History Background Checks concluded that only 50 percent -- yes, half -- of all arrest records have final dispositions. The same report concluded that commercial background check providers tend to have more complete and comprehensive criminal history information than that available through government-administered databases.

There is yet another significant gap in the fingerprint background check process. Lyft requires a valid driver's license, with a photo, which is checked at multiple stages during the onboarding process. Yet here, in California, a person can get fingerprinted without showing a photo ID at all. The rules governing Livescan fingerprinting in California say that if you don't have a photo ID, an applicant can get fingerprinted simply by providing a social security card or other government issued documents that do not contain a photo, and two supporting documents like a utility bill or cancelled check. So there is nothing to prevent an applicant from sending another person, such as a friend or relative with no criminal history, to provide prints at the Livescan location, allowing the applicant to pass the background check despite having a disqualifying criminal record.[2]

In this respect, Lyft believes that its reliance on a government issued photo ID is far more secure than relying on fingerprinting. As a result of Lyft's thorough process I just described, the data that Sterling is able to compile during this process is current and more complete. It is not dependent upon voluntary uploads of criminal records to centralized databases by county personnel, which half the time does not happen. This is why former Attorney General Eric Holder noted that the intent of fingerprint databases is for criminal investigative purposes, and not for workforce screening. The multiple sources used by Sterling add a unique component that, when performed in concert, permits Sterling to cross-reference personally identifiable information across databases and sources, providing a much fuller, more robust picture of the applicant's background than would be possible if relying only on a single aggregate database.

Furthermore, during the vehicle inspection phase, each driver goes through the second identity verification step by either having his or her photo ID verified in person or by going through an electronic ID verification process that uses information pulled from the applicant's background check to quiz applicants in the same way that many banks verify the identity of their clients for online banking.

Finally, before a driver is approved, the driver's photo is checked against the photo on the driver's license. This is the third identity verification step.

If a driver's application is considered for rejection due to his background check, the driver has the ability to access his background check and formally contest it with

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[2] California Fingerprint Roller Handbook, published by the Cal. DOJ

Sterling. In addition, both Sterling and Lyft take precautions to respect the privacy of each driver. Driver background checks are stored within Sterling's secure portal and access to this portal is limited to those who require access for their job functions, which is in line with industry-standard computer security practices.

I should mention that even though it is not required by law, Lyft has adopted a policy of re-running our criminal background check annually for each driver, at the anniversary of the first background check date. For driving record checks, we make use of the DMV Electronic Pull Notification program, which provides automatic updates of motor vehicle-related violations.

The California legislature agrees that our background check processes properly ensure the safety and security of Lyft's users. Late last summer, the California Legislature passed Assembly Bill 1289, which approved the commercial background check processes that I just described. The Legislature was presented with arguments in favor and against commercial background-check requirements, which included the possibility of a fingerprint requirement, and with this knowledge, upheld the current commercial background check process.[3]

Our comprehensive background checks are only the beginning of Lyft's commitment to safety. Lyft uses innovation and technology to implement a holistic approach to safety that has set a new standard for the transportation industry. This includes real time GPS tracking of every ride, in-app photos of the driver and vehicle, two-way feedback after every ride, a 24-7 critical response phone line, and cashless payments.

Lyft stands by its current background check process as a highly effective and reliable method of protecting public safety. Since the CPUC first adopted TNC regulations in 2013, 38 States across the country have followed the CPUC's lead and have not required a fingerprinting background check for TNC drivers. During this time, Lyft has connected millions of safe rides without incident in the State of California and across the nation--demonstrating that the processes first adopted by this body ensure public safety." We therefore request that the current background check rules remain in place. Thank you for inviting Lyft to come today, and I am happy to answer any questions you may have.

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[3] In addition to AB 1289, AB 2777 (2016), AB 24 (2015), SB 1035 (2015) and AB 612 (2014) all considered a fingerprint background check requirement and all ultimately rejected it.