

Taxi and Limousine Commission Meeting
January 5, 2017

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TRANSCRIPT OF THE
NEW YORK CITY
TAXI & LIMOUSINE COMMISSION

THURSDAY, JANUARY 5, 2017
33 Beaver Street
COMMISSION HEARING ROOM, 19TH FLOOR
BOROUGH OF MANHATTAN
10:00 a.m.

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Taxi and Limousine Commission Meeting
January 5, 2017

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HEARING CONVENED AT 10:22 a.m.

COMMISSIONERS PRESENT:

Meera Joshi, Chair

Jacques Jiha

Bill Aguado

Lauvienska Polanco

Nora Constance Marino

Ken Mitchell

ALSO PRESENT:

Chris Wilson, General Counsel

Staff

The Public

The Press

Reported by:
Jennifer Cassella

Taxi and Limousine Commission Meeting
January 5, 2017

3

1		
2	PRESENTATION ON DRIVER FATIGUE PREVENTION RULES	PAGE
3	Madeline Labadie	18
4		
5	SPEAKERS ON DRIVER FATIGUE PREVENTION RULES	PAGE
6	Council Member Brad Lander	30
7	Charles Komanoff, Right of Way	36
8	Amen Ra Mashariki, Mayor's Office of Analytics	38
9	Will Carry, New York City Department of Transportation	42
10	Michael Geraci, National Highway Traffic Safety Administration	45
11	David Beier, Committee for Taxi Safety	49
12	Avik Kabessa, Livery Round Table	53
13	Effie Dror, Datatrack247	61
14	Lauren Smith, Future of Privacy Forum	65
15	Jarret Hova, Tech:NYC	76
16	Brad Gerstman, New York Equal Transportation Access	86
17	Julia Kite, Transportation Alternatives	95
18	Pierina Ana Sanchez, Regional Plan Association	101
19	Nat Goldbetter, League of Mutual Taxi Owners	104
20	Lucien Reynolds, Gale Brewer's Office	109
21	Peter Schenkman, former Assistant Commissioner of Safety and Emissions at the TLC	113
22	Keith Powers, Livery Round Table	117
23		
24	Ashwini Chhabra, representing FHV bases that use Uber	125
25		

Taxi and Limousine Commission Meeting
January 5, 2017

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SPEAKERS (Continued)	PAGE
Gautam Hans, University of Michigan Law School	140
Andrei Greenawalt, Via	146
Joseph Jerome, Center of Democracy and Technology	153
Scott Rutter, Limousine Association of New York	159
Lee Abramson, Uber	164
Michael O'Loughlin, Cab Riders United	166
Geovanie Rosario, Uber	172
Mario Sanchez, yellow cab driver	174
Steven Savader, Uber	180
Doucoure Manyadou, taxi driver	182
Cira Angeles, Livery Base Owners	191
Jose Altamirano, Livery Base Owners	197
Pedro Joaquin Aguiar, Coalition of Taxi Drivers	201
Sami Naim, Lyft	204
Ibrahim Ibrahim, Uber	208
Asim Aktar, New York Taxi Workers Alliance	210

Taxi and Limousine Commission Meeting
January 5, 2017

5

1
2
3
4
5
6
7
8
9
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12
13
14
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24
25

Proceedings

THE CHAIR: Good morning, everyone. It's now almost 10:25 and we're going to start our public meeting of the New York City Taxi & Limousine Commission. First, just a few things to report. One, this is real housekeeping, some people have complained that the stickers on cars are now on the outside instead of the inside. This is true. We've run out of the inside stickers. They will be available in the next week or so. Check with Safety and Admissions, and you're welcome to come in and get your sticker replaced for free if your vehicle ended up with an outside sticker, so there you go.

First on my report is a farewell to somebody who has served this agency for over 15 years. I'm going to ask her to come up and stand here like a roast as I read a few things about Sherry Cohen who is now a member -- well, soon to be a member of the Bronx District Attorney's Office.

I first met Sherry before I came to the TLC. In fact, I interviewed her for a

**Taxi and Limousine Commission Meeting
January 5, 2017**

6

Proceedings

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2 job at the last agency I was with. She
3 explained to me how she'd revamped Consumer
4 Complaints Divisions at TLC. I was very
5 impressed, and she came in with a binder of
6 all the protocols she'd put into place to
7 make sure that that system ran like a
8 machine, so no doubt I recommended that she
9 be hired. I'm glad she wasn't because when
10 it came to the TLC in 2011, Sherry was here
11 ably running the Prosecution Unit. She's a
12 problem solver, she loves a challenge and
13 always comes up with an efficient and
14 correct solution.

15 In 2009, she inherited a Consumer
16 Complaint Division that was literally
17 broken. One attorney handled all of the
18 summonsing, and inspectors from Enforcement
19 Division handled thousands of consumer
20 cases. Piece by piece she built and
21 restructured the division bringing case
22 times down from months to weeks, getting
23 rid of paper and leveraging the technology
24 of our handhelds to allow lawyers to
25 practice law instead of doing data entry.

**Taxi and Limousine Commission Meeting
January 5, 2017**

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25

Proceedings

people did have something to do with it.

When Sherry learned that the Bronx District Attorney was hiring five of her attorneys at the same time, she was angry and she called them to explain how angry she was. That's a call we kind of wish she never made. Upon learning that she'd hired all these wonderful attorneys, they made her an offer she couldn't refuse and now she's going to be Chief Legal of Recruitment at the Bronx District Attorney's Office, and we can safely say inasmuch --

(Applause.)

THE CHAIR: -- we'll miss her, she's leaving the Prosecution Unit on sound footing.

And I want to end on this note: Sherry embodies a work ethic that is rare. She's committed to making organizations run efficiently, making sure people are making informed decisions and are growing professionally, and she's uncomfortable without a challenge. The TLC is a better

**Taxi and Limousine Commission Meeting
January 5, 2017**

11

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25

Proceedings

So I encourage everyone to go up and meet Diana. She'll be joining us at the end of the month, and I'm sure you'll be continuing conversations with her on enforcement for months to come. So welcome.

(Applause.)

THE CHAIR: Next on the agenda is adoption of the minutes.

All in favor of adopting the minutes from the December 8th Commission Meeting?

(Chorus of Ayes.)

THE CHAIR: And with that, the minutes are unanimously adopted.

And next we have base applications for determination.

MS. RICHARD: Good morning, Commissioners. My name is Aisha Richard, Assistant Commissioner of the Licensing and Standards Division. Today I have a total of 19 base applications for your approval, 3 new applications, 11 renewal applications, 7 of which include name, ownership and location changes; 5 change

**Taxi and Limousine Commission Meeting
January 5, 2017**

12

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25

Proceedings

location -- application for changes to ownership and/or location; and I also have one base application recommended for denial due to incomplete application since April of 2016. Thank you.

THE CHAIR: All in favor of adopting the recommendations?

(Chorus of Ayes.)

THE CHAIR: And with that, the recommendations are adopted.

Next on our agenda is a vote on the Green Grant Rules which based on feedback, we made some slight changes to which Chris will go over, and we look forward to launching this program and bringing even more accessible service to the boroughs.

MR. WILSON: Yes. These rules were published in the City Record on November 4th, 2016 with a comment deadline of December 7th, 2016. No written comments were received. A public hearing was held on these rules on December 8th, 2016. These rules, just to remind the Commissioners, will increase the size of

**Taxi and Limousine Commission Meeting
January 5, 2017**

13

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25

Proceedings

the grants available to people with green permits to purchasing accessible vehicles and spread the payment of the grants out over time. They also make -- the rules also permit people to apply for grants for other than their first vehicle, that is replacement vehicles.

Following publication and based on staff comment and recommendation, including as a result of public feedback, the following changes were made to the rule: Revisions were made to clarify the documentation required for applicants for grants and revisions were made to clarify that an applicant can apply for a grant for a subsequent and later vehicle. As Local Law requires, the final rule with those changes was posted on the TLC's website on December 23rd, 2016 and sent to the Commissioners on that date.

If you have no questions, all in favor?

(Chorus of Ayes.)

THE CHAIR: And it sounds like it's

**Taxi and Limousine Commission Meeting
January 5, 2017**

14

Proceedings

1
2 unanimous.

3 THE CHAIR: Next on the agenda is a
4 hearing on rules that would set the limits
5 for the number of hours per day and the
6 number of hours per week that a licensed
7 TLC driver can drive. As you know, we've
8 gone through an extensive process to arrive
9 at the proposed formulation and though no
10 formulation is perfect, our proposal is a
11 careful balance between setting limits and
12 allowing licensed drivers, the majority of
13 whom are independent contractors, manage
14 their own schedules. The rules are
15 historic for us because they apply to all
16 drivers and more broadly, because they
17 recognize the dangers to drivers,
18 passengers and to all we share the street
19 with of driving fatigued.

20 There is also a requirement
21 necessary for us to accurately audit trip
22 records submitted and to adequately enforce
23 against those that do not comply with these
24 limits to provide drop-off time and
25 location. This is information that the TLC

Taxi and Limousine Commission Meeting
January 5, 2017

15

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25

Proceedings

has had for yellow taxis and green taxis since 2009 and 2013, respectively.

The list of speakers today is long and the time limit is three minutes so we are going to enforce it, but knowing that three minutes is short, I encourage people who cannot adequately convey their points to send in written comments and to meet with us in person. The comment period is still open. There are members of the policy and legal team in the back and they'll surely introduce themselves to anyone interested and people are more than welcome to schedule an in-person meeting with us following this, not directly following this hearing but in the weeks that are following this hearing, to go over in more detail any ideas they have about the rules.

Just two things that I want to make clear at the beginning. Several groups and some social media campaigns have objected to the proposal on the mistaken belief that we're asking for passenger information. As

**Taxi and Limousine Commission Meeting
January 5, 2017**

16

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Proceedings

the proposed rule stated that was published 30 days ago and is still able on our website and makes clear, we are not asking for any passenger information at all.

Another thing I'd like to make clear or clarify is several groups bring up an incident involving taxi data from 2013 and some of them mischaracterized the incident as a security breach, so I just want to go on the record to give people an accurate depiction of the incident. At that time, the TLC provided on Open Data taxi trip data including a driver's license number and a medallion number. The agency used a formulation to anonymize the driver license number and the medallion number in order to protect the privacy of the drivers. That anonymization system proved to be not completely safe and an analyst was able to de-anonymize it and identify drivers and medallion numbers. As soon as we learned of this, we took down all driver information and all vehicle information so there is no further numbers up there that

Taxi and Limousine Commission Meeting
January 5, 2017

17

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Proceedings

could potentially be de-anonymized, and that's the way our taxi trip data is currently released on Open Data and it is exactly the same way our FHV trip data is released on Open Data.

On open data for the FHV's, what we provide today is the time of pick-up, the date of pick-up and the neighborhood or taxi zone of pick-up, i.e. Sunset Park. Many of these zones can encompass dozens of blocks and many are extremely dense. Open Data drop-off information would be no different. It would encompass the date and time and drop-off, and the taxi zone and that's it.

So with that, I will have Chris do the formal introduction of the rule and we have some guests that are under time commitments so we'll have to push them forward, but other than that we are going to stick to the three-minute time limit and please take advantage of the opportunity to meet with us in person following the meeting. We look forward to your comments

**Taxi and Limousine Commission Meeting
January 5, 2017**

18

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Proceedings

and if there's other ways to get to our end goal, we're happy to listen to them.

MR. WILSON: Okay. In the interest of time, we do have a presentation but we'll do it afterwards so we can accommodate the speakers.

THE CHAIR: No, we'll do it after this.

MR. WILSON: Okay. So the rules were published in the City Record on December 2nd, 2016 with a comment deadline of January 2nd, 2017. Numerous written comments were received which have been provided to the Commissioners.

THE CHAIR: And so now we'll have a presentation, a summary of the proposed rules from Maddie.

MS. LABADIE: Good morning, Commissioners. My name is Madeline Labadie. I'm a Senior Analyst here at the Commissioner's Office at the TLC. Today I'll be discussing the proposed rule revision for the Fatigued Driving Prevention Rules passed at July's

**Taxi and Limousine Commission Meeting
January 5, 2017**

22

Proceedings

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2 addition, if you start your last trip
3 within the hour limits but go over due to
4 traffic or an unexpected and distant
5 location, you will not be in violation of
6 the rule. Given this change in
7 calculation, we've reduced the proposed
8 daily time limit from 10 to 12 hours and
9 the weekly time limit from 72 to 60 hours.
10 The 12 hour rule accounted for cruising by
11 counting a full hour if it had at least one
12 trip. The proposed 10 hour rule does not
13 account for any cruising time and so
14 logically it is lower.

15 To accurately capture passenger
16 time, we are proposing requiring drop-off
17 date, time and location data for all FHV
18 trips. We are also requesting indication
19 of shared rides so we can improve our
20 understanding of multiple-stop trips and
21 the efficiency in which these vehicles are
22 being used. The proposed rules keep the
23 8-hour reset, which restarts your 24-hour
24 clock after 8 hours without a passenger,
25 and the summons structure put in place in

**Taxi and Limousine Commission Meeting
January 5, 2017**

23

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24
25

Proceedings

July.

This slide shows how counting passenger time would work and how simple it is. This is one driver's first two trips in a day. She picks up her first passenger at 10:02 a.m. and drops him off at 11:07 a.m., a trip lasting 65 minutes.

Therefore, 65 minutes are counted toward the 10 hour or 600 minute daily limit. She has 535 minutes remaining in this 24-hour period.

She picks up her next passenger at 11:25 a.m. and drops her off at 12:00 p.m. noon, a trip lasting 35 minutes. As before, this trip counts for 35 minutes toward her daily limit. After this trip, she now has 500 minutes of passenger time left that day.

So as mentioned before, this revised rules proposal is based off valuable stakeholder feedback and analysis with additional data points. These modified rules will be easier for drivers and bases to apply. A rule is only going to work to

Taxi and Limousine Commission Meeting
January 5, 2017

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25

Proceedings

change behavior if it is easy for drivers to apply and understand. A rule based on actual passenger time which drivers have a record of from their fares, their app, or their in vehicle technology is much easier to follow.

This proposal and the rules passed in July both target comparable instances of excessive driving that risk fatigued driving. The overwhelming majority of TLC drivers are safe, but under the current rule and this proposed rule and following a period of outreach and education, the outliers will be identified and receive penalties to deter this behavior.

For the data requirement: To move to a passenger-time calculation, TLC needs drop-off data from the FHV industry. We are not asking for any personal information on passengers. Any trip data that TLC provides to the public will not contain any driver or vehicle license numbers, and trip location information would provide neighborhoods, not specific addresses.

Taxi and Limousine Commission Meeting
January 5, 2017

25

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25

Proceedings

Drop-off location helps TLC ensure the data we receive from bases is accurate, keeping bases accountable to their drivers and to the public.

Finally, while taxi data has been available since 2009, we have significantly less information about the FHV industry. The addition of drop-off data and shared ride designation will provide crucial information relevant to this rule, general TLC enforcement, analysis and City planning.

So as you all know, TLC makes FHV trip records available to the public via Open Data. When we get Freedom of Information Law requests for trip data, we send requesters directly to the Open Data link. These records do not include any identifying information on the passenger, driver or vehicle. The publicly available records are just the first three columns on the left of the table, the dispatching base number, pick-up date, time and location. With the additional trip data this rule

Taxi and Limousine Commission Meeting
January 5, 2017

26

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25

Proceedings

requires, the new publicly available data will just add the final two columns on the right; drop-off date, time and location. As you can see, the publicly available location is based on neighborhood zones, not precise GPS data.

The submission of drop-off data will be simple for bases that already collect this information. However, we understand that it will take time, possibly months, to implement data collection across the entire FHV industry. TLC will support a coordinated effort to assist bases, just as it did when the FHV industry first began to report pick-up information.

We will not use financial penalties during this period. As data is produced and analyzed, the TLC will identify drivers and bases that frequently exceed the limit and notify them when a potential problem -- beforehand of any -- before any enforcement. Our goal is to reduce risky driving behavior. Before any fines are issued, we will will provide an extensive

Taxi and Limousine Commission Meeting
January 5, 2017

27

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25

Proceedings

education and outreach campaign to all drivers on the risks of fatigue driving and how to stay within the daily and weekly limits.

Thank you for your time and I'm happy to answer any questions you might have.

COMM. POLANCO: Two things. One is from what I understand correctly, since 2009, the taxi industry, the yellow taxis have been providing more data than what we are requiring now for the FHV sector, and so not all the data but similar data, correct?

MS. LABADIE: Correct.

COMM. POLANCO: Okay. Great.

And the other thing is in terms of there have been concern that some of the bases will not be able to provide this data unless they incurred tremendous expenses which will be detrimental to the industry. How does the TLC been able to resolve that situation in terms of outreach and maybe providing -- I understand that even

**Taxi and Limousine Commission Meeting
January 5, 2017**

29

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25

Proceedings

figure this out. This is advanced technology here.

Can you tell me how secure the information is in TLC that you've been securing from yellows and others, and what protocols are in place to make sure that the information remains secure?

MS. LABADIE: Sure. So TLC -- the trip record data submitted to us for both the taxi and the FHV side is encrypted in transit and at rest. TLC is obviously part of the City's very secure network, so we take, you know, cybersecurity very seriously here. So I think that we are confident in our ability to maintain, and track and keep everything secure, and obviously only publish things that are, you know, at the level needed by the public, not the level needed for enforcement.

THE CHAIR: Any other questions?

(No response.)

THE CHAIR: Thank you very much.

And with that, we're going to begin our hearing. We're going to start with

**Taxi and Limousine Commission Meeting
January 5, 2017**

30

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24
25

Proceedings

Council Member Brad Lander.

Good morning.

MR. LANDER: Good morning. Thank you. Nice to see such a good crowd here. Thank you, Chair and Commissioners for holding this important hearing this morning. I'm giving testimony that's from myself as well as Council Members Rose, Levin, Johnson, Rosenthal and Chin. Here's the written testimony.

We are testifying this morning to express our support for the Taxi & Limousine Commission's proposed rules, both to better address fatigued driving and to add trip recording requirements for the for-hire vehicles. As you know, and, you know, as we all know, driver fatigue is a serious issue for all of us, but -- that go on long trips, but of course especially for those who are out there every day driving for a lot of hours that have led to fatalities and that pose risks for New York City residents, and making sure that for for-hire vehicle drivers are not on the

**Taxi and Limousine Commission Meeting
January 5, 2017**

31

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25

Proceedings

road for excessive hours is a critical part of the City's Vision Zero effort.

We agree with the TLC and key stakeholders, including FHV bases, that tracking trip duration is the best way to understand the extent of the issue, and to establish and enforce safe, daily and weekly driving limits. The policy benefits of trip reporting requirements go far beyond preventing driving fatigue, one critical things and the reason I'm glad you're taking it up today, but I do want to note the broader benefits the collection of that data will help us not only prevent driver fatigue but also facilitate other critical efforts that I know are important to the TLC and that are important to the Council as well as we start to work more aggressively on accessibility requirements to ensure that New Yorkers have equitable access to wheelchair-accessible vehicles in New York City; as we hopefully work together on new models for providing drivers with portable benefits like health

Taxi and Limousine Commission Meeting
January 5, 2017

33

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25

Proceedings

maintaining privacy and confidentiality in the data that you will be collecting. Obviously this is critical for New Yorkers concerned about privacy and confidentiality. We believe the protocols you've put in place for yellow and green taxis and will be requiring for FHV's will make sure that passengers cannot be tracked or monitored, and that the proposed rule contains the right balance of reporting essential public information without the potential to compromise individual privacy.

We're also encouraged by your recognition that FHV bases have varied in capacity to comply with the proposed reporting requirements, depending especially on the size of the base and the technology available. We support your plans to work collaboratively with FHV bases and would encourage you to focus on larger bases first and those that obviously have the technology and capability to comply with the rules before working with smaller bases that have more limited

Taxi and Limousine Commission Meeting
January 5, 2017

34

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25

Proceedings

capacity, and to bring them online after that.

We're also encouraged by the fact that the TLC plans to issue warnings prior to summonses to drivers that exceed driving limits for a couple of months after the rules go into effect in order to help drivers avoid penalties and understand the limits, but also demonstrate the seriousness of the rule, and that there will also be driver education and training materials provided by the TLC during the first few months of implementation.

I know that you are getting some push-back on these rules and that is not entirely surprising. As you know, at the Council, we also have experienced that some of the Uber and the other large FHV companies who have this data are reluctant to share it but I think the protocols you've come up with, the security and confidentiality, the ways that you're thoughtful about comparability across the system and the ways that you plan to roll

**Taxi and Limousine Commission Meeting
January 5, 2017**

35

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25

Proceedings

it out more than offset those concerns, and that the public benefit of achieving good driver fatigue rules and the public benefit of having data that will enable us to make good public policy on accessibility, make good policy on driver benefits, make good policy on enforcement far exceed those concerns.

And with that, these other five Council Members and I strongly support the rule you're considering today. Thank you very much.

THE CHAIR: Thank you very much.

COMM. MARINO: I just want to point out to the Councilman and the Chair and my colleagues that I'm glad you pointed out that part of -- what needs to also be taken into consideration is the drivers and assisting them and helping to implement these rules and not just hit them up with all these burdensome fines right off the bat, and I think that's important and I'm happy that we've taken that into consideration and that you've also

Taxi and Limousine Commission Meeting
January 5, 2017

37

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24
25

Proceedings

vehicles operated by transportation network companies to report each trip's drop-off information, that's location, date and time. This would be in addition to the pick-up information that yellows and greens already report -- or sorry, that transportation network companies already report, and in addition to pick-up and drop-off information that the TLC already receives from yellow and green taxis.

Providing the Commission with reliable data for enforcing rules on shift length by requiring that all rather than just some for-hire vehicles report passenger drop-off data will give the TLC a powerful and much needed tool to enforce shift rules. In turn, addressing and reducing driver fatigue will make our streets, roads and sidewalks safer. Not only will it reduce fatigue-related impairment that contributes to crashes, it will also help reduce the overall sense of disorder and disarray on our streets that endangers, injures and kills people

Taxi and Limousine Commission Meeting
January 5, 2017

39

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Proceedings

Chief Analytics Officer, as well as the Director of the Mayor's Office of Data and Analytics.

Some of the public debate around the proposed rules has been about what information would be made publicly available and I'm here to talk about how Open Data helps all New Yorkers by making City government more transparent, more efficient and more equitable. My office along with the Department of Information Technology and Telecommunications implements the City's Open Data Law.

Local Law 11 of 2012 more commonly known as the "Open Data Law" mandates that City's release -- this City releases all of its public data by the end of 2018. The promise of Open Data is it that equips anyone who wants it with knowledge that allows them to take action on their own behalf. This is why in July of 2015, the DoITT Commissioner Anne Roest and I committed to Open Data for All, a vision that every New Yorker, not just the tech

Taxi and Limousine Commission Meeting
January 5, 2017

40

Proceedings

savvy, can benefit from Open Data.

The Taxi & Limousine Commission has been one of our strongest agency partners in Open Data for All. Consider a few benefits of Open Data and how TLC has been a standout example in realizing them. In August, 2015, TLC published over six years of records on rides taken in green and yellow taxis. Previously, TLC would respond to request for this data by loading it onto physical hard drives, but publishing it to Open Data has cut down on the time and resources it takes to fill one-off requests. This is a great example of how Open Data and TLC are partnered to drive efficiency.

We don't always know what's valuable in our data but users often do. TLC data sets are some of the most popular on the portal and are a staple to those in the civic hackers in New York City and beyond. Just this week, MIT's Computer Science and Artificial Intelligence Laboratory published a study using TLC data to suggest

Taxi and Limousine Commission Meeting
January 5, 2017

41

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Proceedings

that all of New York City's demand for ride shares could be serviced by 3,000 carpooling vehicles and a computer algorithm, with wait times averaging less than three minutes. This is an example of how TLC and Open Data partnered to drive community data science.

High-profile data breaches in the public and private sector have rightly elicited unease, but municipal governments in general, and New York City in particular, have sustained a good track record. Security and privacy is a top priority for Open Data. Before the initial public release of for-hire trip data, TLC consulted my office and other data experts to determine what should be released, ultimately deciding to aggregate trip locations to the neighborhood level rather than release exact pick-up locations.

Open Data lies at the nexus of 21st Century digital services, public transparency, cutting-edge civic analytics, and we are constantly seeking to empower

**Taxi and Limousine Commission Meeting
January 5, 2017**

42

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Proceedings

all New Yorkers with new high-quality data.

I'd like to thank TLC for the invitation to testify today and for its continued partnership on Open Data.

MR. WILSON: Thank you.

And the next speaker will be Will Carry from the New York City Department of Transportation.

MR. CARRY: Good morning, Commissioner Joshi and Members of the Taxi & Limousine Commission. I am Will Carry, Senior Director for Special Projects at the New York City Department of Transportation. I am here today to speak in favor of the proposed rule changes.

DOT's core mission is to advance Vision Zero, the City's multi-agency initiative to eliminate deaths and serious injuries from traffic crashes. As DOT testified at your June 23rd hearing, we strongly support TLC's efforts to prevent serious crashes caused by fatigued driving.

Driving is a complex activity involving a constant interplay of visual,

Taxi and Limousine Commission Meeting
January 5, 2017

43

Proceedings

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2 cognitive and manual tasks, and navigating
3 the streets of New York requires
4 extraordinary levels of vigilance and
5 patience. Fatigue can seriously degrade
6 the skill of any driver, including
7 experienced taxi and FHV operators.
8 Several national studies have found that
9 fatigue is a major contributor to crashes
10 that result in serious injury or death.
11 These results have been confirmed by a TLC
12 analysis which found that the likelihood of
13 a driver being involved in a crash
14 increased the longer that driver was behind
15 the wheel.

16 TLC's updated trip reporting rules
17 will enable TL -- the agency to better
18 track the hours worked by taxi and FHV
19 drivers and more easily enforce its
20 fatigued driver rules. These measures will
21 improve safety for FHV operators and
22 passengers, as well as pedestrians,
23 cyclists and motorists.

24 The new data required by these rules
25 will also provide important traffic

Taxi and Limousine Commission Meeting
January 5, 2017

Proceedings

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2 management benefits. Since 2009, DOT has
3 used yellow taxi trip records to analyze
4 traffic conditions in Manhattan, including
5 average traffic speeds and congestion choke
6 points. This data has enhanced the
7 agency's capability to manage our street
8 network and implement a variety of
9 projects, including select bus service
10 routes, protected bike lanes, and to
11 conduct Vision Zero corridor analyses.

12 Currently, TLC only requires FHV
13 bases to report the origin point of trips.
14 With data on FHV trip destinations, DOT
15 will have access to a data set of
16 comparable quality to the yellow and green
17 fleets. This new data will improve the
18 accuracy and expand the coverage of traffic
19 data across the five boroughs, enabling DOT
20 to better plan safety, bus priority and
21 congestion reduction projects. It will
22 also allow DOT to better understand the
23 rapidly changing nature of the taxi and FHV
24 market.

25 New York City's population,

**Taxi and Limousine Commission Meeting
January 5, 2017**

45

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Proceedings

employment and tourism have increased to record highs. To continue to accommodate our growth, the City needs to use all available data sources, including taxi and FHV trip records to plan for the efficient use of our streets.

For these reasons, DOT strongly urges the Commission to approve these measures. Thank you.

MR. WILSON: Thank you.

And the next speaker is Mike Geraci from National Highway Transportation Safety.

MR. GERACI: Good morning, and thank you for your invitation. I am Michael Geraci, Regional Administrator for Region 2 of the National Highway Traffic Safety Administration.

Fatigue is an inescapable biological phenomenon with profound effects on the mind and body. Whether fatigue is caused by the lack of sleep from a late shift at work or a baby crying all night, the negative ramifications are the same.

Taxi and Limousine Commission Meeting
January 5, 2017

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Proceedings

Fatigue does not just cause you to fall asleep at the wheel. It causes impaired decision making, attentional lapses, impaired reaction time, and can be every bit as serious as distracted or alcohol impaired driving.

Fatigue, without question, can lead to serious automobile crashes, accidents at work and other physical and mental health consequences. The longer someone remains awake, especially during the night and early morning, the more likely the negative outcomes become. Fatigued drivers come from every race and ethnicity, gender, age, income, education level and employment status. Once sleepy, everyone experiences an increased risk of crashing, regardless of background or whether they feel fatigued or not.

Fatigue has costly effects on the safety, health and quality of life of the American public. Our best estimate of drowsy driving crashes is that 7 percent of all crashes and 16.5 percent of fatal

**Taxi and Limousine Commission Meeting
January 5, 2017**

47

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Proceedings

crashes involve a drowsy driver. This estimate suggests that over 6,000 people died in drowsy driving-related motor vehicle crashes across the United States last year. Fatal and injury drowsy driving crashes lead to a cost of approximately \$109 billion of societal harm. Some researchers feel that this may still be an underestimate. These costly direct affect the families and businesses bottom line.

Addressing these issues is difficult when our financial needs and values frequently do not align with avoiding drowsy driving. In a 24/7 society, with growing commutes and a greater emphasis on work, many people do not get the sleep they need. Effectively dealing with drowsy driving problem requires a broad range in change in societal norms, especially about our attitudes in drowsy driving. City, State and Federal Government fatigue management regulations and policies are an important and effective first step addressing this serious issue.

**Taxi and Limousine Commission Meeting
January 5, 2017**

48

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Proceedings

We applaud the New York City Taxi & Limousine Commission for their attention to and work on the important issue of fatigued driving. We encourage businesses, whether they have thousands of drivers or only a single person, to manage the impact of fatigue, even when driving within the legal constraints. Businesses should also ensure they investigate incidents that may be fatigue-related and make changes to their own policies to avoid the same issue happening in the future. Fatigue risk management is an active and on-going process that if done well, can help businesses provide a safer environment for the workforce and consumers.

Thank you for inviting NHTSA to provide comments about the dangers of fatigued driving.

THE CHAIR: Thank you very much.

MR. WILSON: Thank you.

And the next speaker is Michael Cohen.

(No response.)

**Taxi and Limousine Commission Meeting
January 5, 2017**

49

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Proceedings

MR. WILSON: Just in the interest of time while they're finding him, let's call the next speaker who is David Beier.

MR. BEIER: Good morning. I am both Counsel to and President of the Committee for Taxi Safety which is an industry group comprised of licensed lease agents representing owners of approximately 2,500 medallions and the 5,000 drivers who drive for us. We have previously submitted comments with reference to the proposed regulations concerning fatigued driving. I will highlight some of those comments at this time.

Basing calculation of driving time on trip or fare duration ignores total time behind the wheel, such as time spent in traffic which often is the most fatigue-inducing driving of all. Whether or not a passenger is in the vehicle is totally immaterial to fatigue caused by driving.

These rules would allow a driver to drive 16 or more hours per day. As an

Taxi and Limousine Commission Meeting
January 5, 2017

50

Proceedings

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2 example, of the 10 hour limitation per day
3 for drivers is reset after the driver takes
4 an 8 hour break, so a driver could drive
5 from 12:00 a.m. to 10:00 a.m., the 10
6 hours, take an 8 hour break until 6:00
7 p.m., and then drive from 6:00 p.m. until
8 12:00 p.m. Of course if the driver does
9 not have a passenger in the car for each
10 minute of those 16 hours, then the driver
11 can be on the road for even more than the
12 16 hours each day, which is clearly
13 contrary to the very purpose of these
14 rules.

15 Additionally, these rules will
16 encourage illegal pickups by their
17 calculation of driving time as passenger
18 time only. Drivers will want to avoid
19 utilizing the meter or an e-hail app to
20 pick up passengers so that the driving time
21 in which no passenger is recorded as being
22 in the car is not counted as driving time.
23 Moreover, once again, this Commission
24 creates, promotes and sustains an unlevel
25 playing field that clearly favors for-hire

**Taxi and Limousine Commission Meeting
January 5, 2017**

51

Proceedings

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2 drivers and companies because the result of
3 these rules will be that e-hail drivers
4 will be able to drive more hours than taxi
5 drivers because many e-hail drivers -- many
6 e-hail rides are to the outer boroughs and
7 airports and return trips and time would
8 not be counted as driving time. This
9 therefore benefits e-hail providers giving
10 them yet another competitive advantage in a
11 long list of competitive advantages that
12 this Commission has bestowed upon them.

13 And then the Commission proposes
14 that the enforcement be delayed. It states
15 it will first work with FHV bases to help
16 them meet the trip data reporting
17 requirements with no time limit set for how
18 long that period of help will be, and then
19 after providing time to help meeting the
20 reporting requirements, this Commission
21 also proposes that after these reporting
22 requirements are finally met and before any
23 summonses are issued, that it will issue
24 warnings for several months to drivers and
25 bases that exceed the daily or weekly

**Taxi and Limousine Commission Meeting
January 5, 2017**

52

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Proceedings

driving limits. There simply is no excuse for delaying the issuance of summonses.

As to the data reporting of itself, the bases should be required to provide not only information with reference to dispatch calls but data relating to the vehicle location at any time the driver is logged into the ride share platform. If safety is the goal as stated, then make the regulation meaningful. Driving time is driving time and fatigue is fatigue. Whether a passenger is in the vehicle or not has absolutely no relevance.

Accordingly, we believe that the Commission -- if the Commission is going to promulgate a rule, then it should be effective, clear and simple to enforce. 12 hours a day, 7 days a week, no exceptions. What can be easier and for effective than that?

As said, we have previously submitted written comments and we refer the Commissioners to those comments. We would be glad to meet with individual

**Taxi and Limousine Commission Meeting
January 5, 2017**

53

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Proceedings

Commissioners or this Commission to further discuss our concerns. Thank you.

MR. WILSON: Thank you.

And the next speaker is Avik Kabessa.

MR. KABESSA: Good morning. Livery Round Table objected to the original rules but when it passed, we looked to help our members comply. However, before the TLC even tried to assess the effectiveness of the current rule, it is looking to change the rule to something monstrous in nature. Now, I'm sure you all think it's an inflammatory statement but it's only because the TLC did not describe the changes they are looking implement, so allow me to do so.

Under the current rule, a pick-up is counted as one hour, therefore a base needs to only log the pick-up time and the trip is an hour. That makes determining the cutoff point for the driver easy. Once the count reaches twelve trips, the day of the driver is done. So that also means that

**Taxi and Limousine Commission Meeting
January 5, 2017**

56

Proceedings

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2 confused. The principle is that bases are
3 responsible for not dispatching drivers for
4 over the allowable limits and that is
5 simply because if drivers will reach a
6 certain point of fatigue, the base, as part
7 of their responsibility as a licensee,
8 shouldn't continue to dispatch. There is
9 an exception in the rule that if you're on
10 your last trip and you go over the hour,
11 you're not expected to just cut off your
12 trip in the middle and kick the passenger
13 out, you're allowed to continue your trip,
14 and that is a defense to -- it's not even a
15 defense, we won't prosecute that because
16 it's a codified exception.

17 MR. KABESSA: I beg to differ on
18 that answer. You may do not prosecute that
19 as an overtime on that daily trip, but you
20 will prosecute that on the accumulated
21 driving hours if you check your rules,
22 so --

23 THE CHAIR: That's something we're
24 happy to discuss with you if that's a point
25 of -- and I'm glad you're raising it now.

**Taxi and Limousine Commission Meeting
January 5, 2017**

60

Proceedings

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2 offer is to do two things before you vote
3 on those changes. First -- and by the way,
4 many speakers spoke in favor of protecting
5 against fatigued driver. This is not the
6 question at hand. You had passed a law in
7 July that protects against fatigued driver.
8 Okay. I'm asking the following: Implement
9 the current rule as it is and assess the
10 results, that's number one. Number two,
11 use some of the bigger bases, and I'm
12 volunteering Carmel, to try both systems
13 and then assess if indeed we could have
14 missed the fatigued driver doing it your
15 current -- your proposed way. Maybe the
16 difference between the current way and the
17 proposed way is null. So do it before you
18 subject the industry for such a big fine
19 because it's a huge financial burden, and
20 if you do an API guys, it's not only the
21 the initial 10,000, it's a recurring
22 monthly cost. I'm not underestimating
23 three percent of people that do it, but
24 maybe there's no need to.

25 THE CHAIR: I appreciate your

Taxi and Limousine Commission Meeting
January 5, 2017

61

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Proceedings

comments and your offer, and I acknowledge that there are costs, just as there were costs with the yellows and the greens, the initial cost of the equipment and the monthly charge but we welcome the opportunity to talk with you more about your ideas.

MR. KABESSA: Yeah. The Livery Round Table is requesting a meeting with you, so thank you.

MR. WILSON: Thank you.

And the next speaker is Effie Dror.

MR. DROR: Good morning, Commissioners, and fellow New Yorkers. My name is Effie Dror and I am the Fleet Management Analyst for Datatrack247.

COMM. MARINO: For what?

MR. DROR: Datatrack247.

Datatrack is it a technology-based company that offers management solutions for fleets of vehicles and we have a 30 years personal connection and experience within the New York City industry assisting and working with the Taxi & Limousine

**Taxi and Limousine Commission Meeting
January 5, 2017**

62

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Proceedings

Commission and other private entities. I'm glad to follow Avik Kabessa because we do understand the needs for engaging and providing better and secured roads for our fellow New Yorkers, whether they're pedestrians, or bike drivers, or fellow truckers. However, two years ago we were presented with information that Vision Zero was being enacted and adopted by the Commission and we have participated in the last two years providing data and information resulting from technological solutions.

Our 30 years experience within the market have proven that we are able or there are simple, affordable technological solutions that provide descript data and at the same time cover every angle from driver fatigue, driver behavior, active driver modification system and so forth. So the technology is available. It's been working in the field for at least five or six years in New York City and actively producing great results with a great ROI factor for

**Taxi and Limousine Commission Meeting
January 5, 2017**

63

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Proceedings

any participant company eventual and
utilize the technology.

The question is, why would driver
fatigue, which is a natural component of
driver behavior or Vision Zero, would not
be culminated together under the same plan?
We've already been working with the
Commission's office for the past two years
providing important pertinent data and we
were able to show how technology able to
change, educate and alter the behavior of
actual drivers engaging on the road for the
past two years. So the question is, why
would the driver fatigue be so convoluted,
complex and wouldn't be apart of the
proposed technology that comes with Vision
Zero initiative?

THE CHAIR: So I just want to
clarify. So your question is actually one
of sort of looking even more forward,
rather than methodology where individual
bases choose how they comply with or how
they run the methodology to comply with the
rule, you're suggesting that there be a

**Taxi and Limousine Commission Meeting
January 5, 2017**

65

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Proceedings

than going into convoluted procedures and trying to enact and see how they work for the market, how they work for the fellow operators and for the Commission and for the City itself.

THE CHAIR: Thank you very much for your comments.

MR. WILSON: Thank you.

And the speaker is Jarret Hova.

MR. HOVA: While we check the overflow room in the interest of time, let me just call the next speaker, Lauren Smith.

MS. SMITH: So thank you to the TLC for the opportunity to speak today. My name is Lauren Smith, and I'm a Policy Counsel at the Future of Privacy Forum. FPF is a non-profit in Washington that serves as a catalyst for privacy leadership and scholarship, and advances principle data practices in support of emerging technologies. We believe that the power of data for good is a net benefit to society, and that it must be well-managed to control

**Taxi and Limousine Commission Meeting
January 5, 2017**

66

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Proceedings

risks and offer the best protections and empowerment to consumers and individuals.

 Last week, FPF submitted comments to the TLC in partnership with four other leading groups: The Center for Democracy and Technology, the Electronic Frontier Foundation, the Constitution Project, and Tech Freedom. These organizations all wrote to highlight the significant privacy risks posed by the addition of more data reporting requirements to for-hire vehicle bases.

 In the letter, we made three recommendations that we think are crucial to mitigate the privacy risks posed by this rule. We call on the TLC to take three steps. First, to tailor the data collection more narrowly to the stated purpose by focusing on trip duration rather than the location of trips. Second, to collect less precise, more general geographic information. And third, to enact policies and procedures that detail the privacy and security protections for

**Taxi and Limousine Commission Meeting
January 5, 2017**

67

1 Proceedings

2 such sensitive data.

3 COMM. MARINO: May I just interrupt
4 for one second? Your second one, collect
5 less precise, I mean, it's already not
6 really precise, isn't it? I mean, the
7 drop-off is just a general area, so how
8 much less precise can you get than that?

9 THE CHAIR: What's available on Open
10 Data and through FOIL is a taxi zone, so
11 that's a neighborhood that covers several
12 blocks.

13 MS. SMITH: But we're saying that it
14 should be collected at that level as well,
15 whereas what I believe what you'd be
16 collecting is more precise.

17 THE CHAIR: It would be difficult to
18 achieve the purpose of auditing the rule if
19 the drop-off was say Sunset Park. It's a
20 large neighborhood and the duration of a
21 trip could vary vastly depending on what
22 part of Sunset Park we were talking about.
23 So I take your point that you would like us
24 to collect less granular level for a host
25 of reasons but most importantly particular

Taxi and Limousine Commission Meeting
January 5, 2017

68

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Proceedings

auditing for fatigue driving, I'm not sure it would be helpful.

MS. SMITH: So we would, and I believe the other groups as well, would be happy to engage in a dialogue about what would be the best way to approach defining the granularity of that data. There are certainly other standards such as in HIPAA and other sort of well-established regulation that could help guide that, that could help both protect consumers as well as more accurately sort of achieve the goals of the rule without going overly broad.

THE CHAIR: Well, as I said in the beginning, I look forward to continued meetings on this and look forward to your ideas.

MS. SMITH: Great. We do as well. Thank you.

So location data can be highly sensitive information. These additional data points pose particular risks in light of the TLC's existing data collection,

**Taxi and Limousine Commission Meeting
January 5, 2017**

69

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Proceedings

given that FHV bases must already report the date, time and location of the passenger pick-ups. With the addition of drop-off data as proposed by the rule, the TLC's data set would provide the TLC and the public with a comprehensive view of the movements of individual New Yorkers.

THE CHAIR: And that one I have to beg to differ. I don't know if you caught the beginning of my speech with that clarification. Can you describe to me how, with my clarification, that our -- what we would put on Open Data would provide a comprehensive look of an individual trip?

MS. SMITH: Yes. So the next section will address that and then I'm happy to respond after if that works.

THE CHAIR: Sure.

MS. SMITH: So we understand that the Commission has proposed this rule change in order to reduce the risks associated with fatigued driving but the TLC could better pursue this goal by collecting trip duration. Troublingly, the

**Taxi and Limousine Commission Meeting
January 5, 2017**

70

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Proceedings

proposed rules are also unclear on how this new information about passenger drop-offs could be shared among City departments. Clear rules must be established to address potential access to the data by other agencies and law enforcement. Law enforcement access to such data about citizens in particular can raise serious Fourth Amendment concerns.

Data collected by the TLC, as you mentioned, can also be subject to New York's Freedom of Information Law. And acknowledging the discussion earlier, the TLC has previously released similar data in response to Freedom of Information requesters, and requesters have de-anonymized the data and made it easily accessible to anyone with an Internet connection.

THE CHAIR: Just to clarify, I said in the beginning we are not releasing driver information or vehicle information. Those we at issue. So again, I ask you without driver information, without vehicle

Taxi and Limousine Commission Meeting
January 5, 2017

71

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Proceedings

information, without any passenger information which we absolutely do not collect and with only a drop-off and pick-up location that are a taxi zone encompassing dozens of blocks and New York is dense, there's lots of people on every block, how is that giving a comprehensive view of an individual trip?

MS. SMITH: So we do appreciate the steps that have been taken since that prior -- that prior FOIL request and do think that these are positive steps in terms of what is released. Studies have demonstrated that even de-identified data can be reverse engineered to reveal passenger names --

THE CHAIR: But there's no data to de-identify. When we say we don't give out a driver number, there's nothing to de-identify. We don't give out the number.

MS. SMITH: So studies that look at transportation and location histories over time, now that we can have bigger and bigger data sets, studies have been able to

Taxi and Limousine Commission Meeting
January 5, 2017

72

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Proceedings

re-identify individuals, not necessarily with your data set but in general and we're happy to send along studies that --

THE CHAIR: I would love to see those where the locations were large neighborhoods, and if you have examples of that we'd be happy to look at them.

MS. SMITH: Okay. And again, I think that the steps that have been taken to limit what is released are absolutely positive ones and certainly reduce the fear that we had sort of initially reading the rule. I would say that even the existence of more granular data sets creates a risk and, you know, by adding this drop-off time and location so that you not only have pick-up exact -- precise pick-up time and location as well as precise drop-off time and location in an existing data set, the privacy risk posed by this grows substantially.

Essentially, even with robust de-identification, which honestly a lot of folks in the privacy community don't

Taxi and Limousine Commission Meeting
January 5, 2017

73

1 Proceedings

2 believe is even fully possible --

3 THE CHAIR: And is irrelevant as I
4 said in this situation because we're not
5 providing driver, or vehicle or any
6 passenger information.

7 MS SMITH: So our concern is not
8 solely with the data this is officially
9 released. Our concern also applies to the
10 existence of a data set with this level of
11 information and both it's existence as well
12 as the security practices that would be
13 taken around it, as well as whether it
14 would be shared internally within
15 government at a higher level of detail.
16 Again, security experts, many of them don't
17 even believe that de-identification can be
18 possible, and, you know, as we see the,
19 sort of the rate of data collection and
20 study is often outpacing our ability to
21 secure such data, and, you know, as time
22 moves forward, those technologies advance
23 significantly.

24 So again, we're certainly happy to
25 engage in a dialogue, but we think that

Taxi and Limousine Commission Meeting
January 5, 2017

74

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Proceedings

having a policy that would follow those three recommendations would be more likely to prevent security risks, prevent both breaches, as well as other incidents that could reveal information about passengers. And, you know, I doubt that if we had this -- you know, we initially pushed back against the initial rule that called for the collection of pick-up time and location data, and the addition of drop-off data sort of makes it much easier to connect those dots, I doubt that if we had talked to the TLC prior to that FOIL release earlier, I'm sure that the answer might have been that they secure the data and take seriously the projection of the data, but as time advances we see that data security and protection is incredibly important, but the more data points that you have in a data set, the greater the risks are. Even in, you know, other areas of car data that we work on, sort of behavioral driving information which is the rate at which you drive your car, the

**Taxi and Limousine Commission Meeting
January 5, 2017**

75

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Proceedings

number of times that you brake heavily,
information like that that would not seem
identifiable to a casual observer. As
there is more and more of that type of data
collected, there have been studies found
that that information about driving habits,
if you plug into a carport and collect that
information can be as identifying about a
driver as a fingerprint.

THE CHAIR: So I guess we have to
dear the automated vehicle which will
collect all of that.

MS. SMITH: So my point would be
that the more sensitive data points that
you collect in a database, the greater the
risks. And given that this is a set of
information that can reveal serious
information about the day-to-day habits and
movements of New Yorkers, which we consider
to be more location data is considered in
the privacy community to be much more
sensitive than other information, we think
that the risk that is created by this
database would be unnecessarily high and

Taxi and Limousine Commission Meeting
January 5, 2017

76

1 Proceedings

2 doesn't --

3 THE CHAIR: So in the interest of
4 time because it's three minutes, we'll
5 definitely love to meet with you more and
6 give you -- I think there's definitely some
7 miscommunication on what exactly we do
8 which may help guide your further thoughts
9 on this issue, but we look toward to
10 hearing your comments in more detail in
11 person.

12 MS. SMITH: Great. Thank you.

13 MR. WILSON: Thank you.

14 And I'm told that Jarret Hova is
15 here.

16 MR. HOVA: Good morning,
17 Commissioners. My name is Jarret Hova and
18 I am the Policy Director for Tech:NYC.
19 Tech:NYC is a coalition of technology
20 companies working to strengthen the
21 connection between New York's technology
22 industry and its law and policy makers,
23 with the ultimate goal of ensuring that New
24 York is the best place to grow and develop
25 a technology company.

Taxi and Limousine Commission Meeting
January 5, 2017

77

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Proceedings

I am here today to share feedback on the proposed fatigue regulations. We support the comments and positions of our several member companies who will testify today and likely have already submitted letters to the agency, but want to speak independently to provide a slightly different perspective, that of the broader technology industry here in New York. Like many others here today, we support TLC's goals to reduce driver fatigue and its proposal to limit driver hours. But we have significant concerns about the data-sharing component of the proposed rule and we respectfully request that the rule be amended to omit any request for location drop-off data and information on shared rides.

I'm going to jump around a little bit on my testimony because I think we've addressed some of the things that I was planning to talk about.

The first thing that I'd like to say is it goes without saying that the

Taxi and Limousine Commission Meeting
January 5, 2017

78

Proceedings

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2 proliferation of technology has vastly
3 increased the amount of personal data that
4 entities, both public and private, can
5 access. That data can include some of the
6 most private personal matters, such as home
7 addresses, medical situation, financial
8 information and family affairs. For this
9 reason, it is crucial that the institutions
10 protect their users' data and ask for only
11 as much information as is necessary to
12 achieve the underlying goal. This is true
13 for companies, NGOs and government alike.

14 Against this backdrop, government
15 must have a valid justification for
16 accessing private data in the first place,
17 tailoring all requests for data narrowly to
18 the government's objective, and balancing
19 those objectives against the risks to the
20 public. In this case, while we again agree
21 that diminishing driver fatigue is a valid
22 goal, we do not believe the TLC has made
23 the case that the agency needs pinpoint
24 drop-off data for all FHV rides to reduce
25 driver fatigue. TLC can make the

Taxi and Limousine Commission Meeting
January 5, 2017

79

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Proceedings

determination in question, the duration of a driver's shift, by requiring only duration information and not also requiring pinpoint drop-off location data. In fact, in its own Statement of purpose -- of Basis and Purpose, TLC states that the duration of trips and not the pick-up and drop-off data accurately identifies a driver's risk of fatigue and makes it easier to track drivers' hours for purposes of compliance.

The second issue I'd like to address is again, something that's specific to the area of concern that we have which is proprietary business information. We have concerns that the information sharing required by the regulation --

COMM. MARINO: Can I just ask you a question?

MR. HOVA: Yes, of course.

COMM. MARINO: So you're saying that basically only the time matters and not the locations, correct?

MR. HOVA: That if you have the start time and you also have the completion

Taxi and Limousine Commission Meeting
January 5, 2017

81

1 Proceedings

2 COMM. MARINO: It's the driver, it's
3 just a lot -- it's not just the base.
4 There's drivers, there's -- I mean, I just
5 think it's -- I don't know how you
6 would -- how that could be credible
7 information then. At least when you have a
8 starting point and a drop-off point,
9 there's some way to just --

10 THE CHAIR: I mean, I can say
11 generally, whenever -- we have a basic duty
12 to audit and verify the data that we keep,
13 especially when we make broad public policy
14 based upon it and this would be no
15 exception to that general rule.

16 MR. HOVA: I would say in response
17 that we're not sure that if a base is
18 motivated to falsify their data based on
19 the duration that they wouldn't also be
20 motivated to falsify the data based on
21 location as well. I'm not sure that that
22 prevents any more of an impediment towards
23 falsifying that data.

24 So back to the point about
25 proprietary business information. We also

**Taxi and Limousine Commission Meeting
January 5, 2017**

82

Proceedings

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2 have concerns that the information sharing
3 required by the regulation could compromise
4 sensitive proprietary data. This is
5 especially true now that several technology
6 companies in the FHV industry offer
7 ride-sharing services in which one driver
8 will pick up multiple passengers during the
9 same trip. The formulas that allows
10 companies to determine commonalities among
11 customers' desired trips are tantamount to
12 trade secrets. Entrusting this data to a
13 regulator arouses reasonable concerns
14 especially, as noted above, when the
15 information is not necessary for the
16 government action in question.

17 And again, Chair, I think I --

18 THE CHAIR: I think the question
19 from FOIL is, is it a trade secret or not,
20 and I don't know that it has been
21 established that it is a trade secret. In
22 fact, I mean, the irony is I think
23 competitors like to look at other
24 competitors' data to fine-tune their own
25 algorithms, and who's the benefit of that,

Taxi and Limousine Commission Meeting
January 5, 2017

84

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Proceedings

information about when and where a particular base experiences high volumes of business. Other bases can't take advantage -- other bases can, excuse me, take advantage of this information by reallocating resources to try to cut into a particular base's business.

THE CHAIR: I hate to stop you again, but I believe that's what they do today. It's called competition.

MR. HOVA: I'll just refer you to my previous point about that when there is pinpoint data that's out there, I think it's -- it could be a risk or drivers, for bases.

The third point I want to emphasize is just a reelection on New York. As a coalition of technology companies focused on the industry ecosystem in New York, we are particularly concerned about this rule's impact on New York's image as a tech-friendly city. Technology companies and the technology community writ large share concerns about government overreach

Taxi and Limousine Commission Meeting
January 5, 2017

86

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Proceedings

MR. GERSTMAN: Hello, and thank you very much. My name is Brad Gerstman, spokesperson for New York Equal Transportation Access, and I'm also an attorney who has brought a number of lawsuits against Uber and Uber drivers for assaults of individuals and passengers.

So there's a lot to discuss. I mean, some of this stuff really is incredible but there's a big white elephant in the room that we all have not pointed to yet and the big white elephant is the yellow cab medallion system. They have TPEP. TLC knows exactly where those cars are all the time, everyday, and all the details about the trips, when the meter goes on, when the meter goes off. So the notion that there's some kind of privacy here or that the public security, the interest of public safety shouldn't be a concern here in general is just a complete fallacy. As far as I'm concerned it's a red herring. And the other big white elephant in the room is that Uber doesn't

**Taxi and Limousine Commission Meeting
January 5, 2017**

87

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Proceedings

want to give any information over. Let's be honest, they don't want to have any regulations. No matter where they go they say they don't want the regulations. They won't give a fingerprint in Austin, Texas, a single fingerprint of their drivers. So all this stuff, they're just throwing out there at you. I get the tweets, I get the e-mails too, so don't even think about it.

But I want to tag my comments along with where the Council Members are on this, okay, and where a number -- where Brad Lander came in here and spoke and he was talking about general trip requirements because of the trip safety that are broader than not just whether or not somebody is fatigued when driving, which needless to say is an important issue, but there are a lot of bigger issues. When somebody is assaulted inside a vehicle or there's wrongdoing inside a vehicle and you're in an Uber car, do you know what, you have no information to go on. You cannot find that person. Okay. TLC does not have the

**Taxi and Limousine Commission Meeting
January 5, 2017**

88

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Proceedings

information, okay, and we have no way of tracking down who that is and it requires NYPD to get a subpoena to subpoena Uber and then Uber then is required to give over the driver information.

So if you look at yellow cabs on the other hand, if something goes down, an assault in a yellow cab or the driver is even nasty to somebody, immediately a call can come right into TLC and it can be resolved, and even if you don't know what the name of the driver is, you know the four cars that were in that area at that particular time. There is no privacy associated.

So where you think you've gone far enough in asking for trip data, okay, and Uber says you've gone way too far, I'm here to say that you haven't gone far enough. What the TLC needs to do in the interest of public safety is to implement a tracking system, much like TPEP, and follow those Uber drivers so you know where they are. There are 40,000 vehicles or more on our

**Taxi and Limousine Commission Meeting
January 5, 2017**

89

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Proceedings

streets, there's only 14,000 yellow cabs,
and if you felt it necessary to put TPEP
and to track yellow cabs inch by inch
traveled throughout our city, then without
question, without question, the same public
interest exists in tracking Uber vehicles.
Anything short of that to me, is a, you
know, is just taking a pass at what your
responsibilities are for public safety here
in New York City. We have a major problem.

I can tell you I have a client who
was kidnapped by an Uber driver, taken to
the South Bronx instead of the Upper East
Side. If it wasn't for her jumping out of
the car and finding safety and that car
still chasing her, okay, and we can't find
out who that is. And when we go to Uber,
do you know what they say, we won't link
that individual driver up with you anymore.
Is that okay with TLC? How about T --

COMM. MARINO: If you don't mind me
interrupting.

MR. GERSTMAN: Go ahead. I'm sorry.

COMM. MARINO: Is this in suit, this

Taxi and Limousine Commission Meeting
January 5, 2017

90

1 Proceedings

2 case?

3 MR. GERSTMAN: Yes, as of today.

4 COMM. MARINO: And have you
5 subpoenaed Uber? I mean, I'm asking
6 this --

7 MR. GERSTMAN: We will, we will. We
8 don't even have a driver name but we will
9 subpoena them. We'll get to the bottom of
10 it.

11 COMM. MARINO: Right. You have a
12 John Doe right now, obviously.

13 MR. GERSTMAN: Right now, but let's
14 just say that person's also driving for
15 Lyft or let's just say he gets paired up
16 with you or my daughter, okay, and if they
17 terminate, just say Uber says I'm going far
18 enough, we've investigated the issue and
19 we're terminating the driver, then what?
20 They go work for Lyft because TLC has no
21 idea who that person is.

22 THE CHAIR: I just want to say this
23 is a public service message that I'll put
24 in here. If people do have an issue with a
25 driver, if they contact us, we are the only

**Taxi and Limousine Commission Meeting
January 5, 2017**

91

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Proceedings

entity that can revoke a license. So, you're right. If a driver has a problem with -- if you have a problem with a driver and you report it to an app or to a base and they tell the driver okay, you can't work for us, they can go work for somebody else. So we encourage the public if they do have an unpleasant experience or a horrible experience, anything on that scale, report it directly to us so we can do an investigation because only then if it's true as alleged, can permanent action be taken against the driver so they're no longer able to serve the public.

MR. GERSTMAN: And thank you, Madam Commissioner, but I have to take issue with the entire process. Okay.

COMM. JIHA: Could I ask a question?

MR. GERSTMAN: Go ahead.

Can I just respond quickly?

COMM. JIHA: Sure. Go ahead.

MR. GERSTMAN: It's going to be two seconds.

One is, yellow cabs you know, okay,

Taxi and Limousine Commission Meeting
January 5, 2017

92

1 Proceedings

2 no one has to report anything, correct? I
3 mean, you --

4 COMM. MARINO: We already have it
5 through TPEP.

6 THE CHAIR: Yes.

7 MR. GERSTMAN: You have the
8 information.

9 COMM. MARINO: We already
10 automatically have it through TPEP.

11 THE CHAIR: Yeah.

12 MR. GERSTMAN: Right, so you already
13 have it. So in that case you have it.
14 Here, if you have a for-hire vehicle with a
15 true base where Uber doesn't have a true
16 base, okay, that's a whole other story, we
17 won't get into it today, they don't have a
18 true -- the base is going to terminate that
19 driver and report the driver because they
20 are business people. Here you have just
21 Uber whose idea is to keep the information
22 confidential within them. And they
23 have -- they know where their drivers are
24 every second of every day just like you
25 know where --

**Taxi and Limousine Commission Meeting
January 5, 2017**

93

1 Proceedings

2 COMM. JIHA: Let me ask you a
3 question.

4 MR. GERSTMAN: Go ahead, sir.

5 COMM. JIHA: I thought that Uber
6 sent you a picture and the name of the
7 driver when they're picking you up.

8 MR. GERSTMAN: First name and a
9 picture, and let me explain the interesting
10 part about this. First name and a picture.
11 So I have a second client that we went into
12 suit today --

13 COMM. JIHA: So you have that
14 information then?

15 MR. GERSTMAN: No. Here's why. As
16 soon as you -- Uber says instead of calling
17 TLC or the police, please call us if you
18 have a problem, and so what we found is
19 that they call Uber, they dial that 800
20 number, they tell them there's a problem
21 and when they're not getting satisfaction
22 from Uber because all Uber is trying to do
23 is just hold you back from calling the
24 police, when you do call the police you say
25 look, this is terrible, I have to call the

**Taxi and Limousine Commission Meeting
January 5, 2017**

94

1 Proceedings

2 police, I'm hanging up, they wipe your app
3 clear.

4 THE CHAIR: Can I just make one
5 comment? We do have a packed house. This
6 is one particular case that is in
7 litigation. It may not be appropriate for
8 us to spend the time today to go over each
9 and every detail. We do have your comments
10 and we have --

11 MR. GERSTMAN: Right. And it's a
12 bigger issue though.

13 THE CHAIR: -- I think the
14 large -- we've gotten your comments on your
15 feelings on a larger issue, and in the
16 interest of time, we're going to have to
17 move onto the next speaker, but thank you.

18 MR. GERSTMAN: Sure.

19 COMM. MARINO: Are these comments
20 written?

21 MR. GERSTMAN: Yes.

22 COMM. MARINO: Can I get a copy of
23 these? Thank you.

24 MR. WILSON: Okay. The next speaker
25 is Julia Kite.

Taxi and Limousine Commission Meeting
January 5, 2017

95

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Proceedings

MS. KITE: Thank you, Commissioner Joshi, and members of the Taxi & Limousine Commission for calling this hearing. I'm Julia Kite, Policy and Research Manager of Transportation Alternatives. We are a 44-year-old membership-based organization advocating on behalf of New York City's pedestrians and cyclists for safer, better and more livable streets.

We were pleased and honored to have contributed to the initial creation of the fatigued driving prevention rules last year, as this is a cause very close to our mission to protect New York City's most vulnerable road users. We were contacted by the family of Luisa Rosario, the Manhattan woman who was killed in November, 2015 by a taxi driver reportedly having been on the road 16 hours, and we heard firsthand their grief at the loss of their loved one in this entirely preventable crash.

We understand the practical rationale for changing the way working

**Taxi and Limousine Commission Meeting
January 5, 2017**

96

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Proceedings

hours are measured for the purposes of enforcing the new rules, but we have serious concerns that only counting the times when drivers have a passenger on board will not adequately prevent fatigued driving. This new measurement standard is less suitable to the goal of reducing fatigued driving than the original one presented in June, 2016, and stands in the way of this rule being truly effective, although I do understand the reasons for changing.

But regardless of whether there's a passenger in the cab, driving requires sharp mental faculties at all times, and knowing that drivers spend between 40 percent and 60 percent of their driving time without a passenger, setting the daily limit to 10 hours of driving with a passenger can still allow a driver to be on the road for 16 hours total. This is a dangerous situation regardless of who is or is not in the car. This rule change would not have prevented the kind of driver

Taxi and Limousine Commission Meeting
January 5, 2017

97

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Proceedings

behavior that led to the death of
Mrs. Rosario.

For this reason, we suggest that if
this new proposed standard of measurement
remains, that the maximum amount of driving
time with a passenger be reduced to 6 hours
in order to take into account the several
hours per a day a driver may be behind the
wheel without a fare. This is still a
reasonable amount of time because if the
driver then spends roughly half his time
cruising for fares, this would still be a
total of 12 hours behind the wheel max, in
line with what the original limits were
proposed in summer of last year. And we
urge the TLC to continue developing
technologies for more accurate measurement
of total driver time, which can eventually
replace the standard of measuring only the
time with a passenger.

The TLC's creation of rules to
prevent fatigued driving was a high point
of proactive street safety policy in 2016
and we would just hate to see those efforts

Taxi and Limousine Commission Meeting
January 5, 2017

98

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Proceedings

weakened. We wouldn't want all the time and work that you've put into creating and implementing these rules to be negated due to the fact that the new proposed method of calculating hours will in fact do little to actually prevent fatigued driving.

So we ask you to please reconsider the change, recognizing that driving is driving regardless of whether there's a passenger on board. Thank you very much.

THE CHAIR: Thank you for your comments, and I think in, yes, part of our struggle here is under either scenario, there was always a proxy for cruising in the FHV world and a proxy for the time you went to -- and it took to get a passenger. And we've looked to strike the balance that gets to safety goals as well as allows drivers the, as independent contractors, the ability to manage their schedules within limits, and also to earn an income which, you know, the income that they're currently earning because only very few percentage of our drivers are over the

Taxi and Limousine Commission Meeting
January 5, 2017

99

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Proceedings

limits that we've proposed as the same with the prior limits.

But a couple of things I just want to quote. There are -- yes, any rule, even if you took -- you know, there was one suggested earlier, why not just have 12 hours a day, 7 days a week, but I don't know that we want drivers, if we take that to the extreme, driving 365 days a year for 12 hours. So any rule taken to the extreme will most likely in this imperfect scenario get you to a result that doesn't feel comfortable and I -- I'm totally sympathetic.

But I would like to remind everyone that this is an industry that's driven by the ability to make money so that sort of gravitational force works against extending your day. The more time you're in the car, that's more gas, it's more potential tickets for parking or for moving violations, or for a run-in with one of our inspectors that doesn't turn out well, wear and tear on your car, and the frustration

Taxi and Limousine Commission Meeting
January 5, 2017

100

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Proceedings

of being in traffic. So I don't think it's the goal of any driver to spend long hours on the road and in fact, it's completely inefficient for them, and because that is the natural force of the world, we don't want to discount that because there is an outlier situation if we were to take any rule to the extreme.

With that being said, we do appreciate how you've acknowledged that technology could take away a lot of this sort of prediction that we're doing on what the best methodology is, and it's our hope that should the rule pass and as we get more accustomed to the patterns in the -- across the sectors, that we are able to fine-tune and make this as tight of a rule as possible to ensure the safety. And we appreciate your partnership and support on all of our safety efforts. Thank you.

MS. KITE: Thank you, Commissioner.

MR. WILSON: Thank you.

The next speaker is Steven Shanker.

(No response.)

Taxi and Limousine Commission Meeting
January 5, 2017

101

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Proceedings

MR. WILSON: I'm not sure if Mr. Shanker is here. I'll call the next speaker. Pierina Sanchez.

MS. SANCHEZ: Good morning. My name is Pierina Ana Sanchez and I'm the New York Director at Regional Plan Association, which is an urban policy think tank that works in transportation policy but also energy and environment policy and community development. We've been around for a hundred years and we plan for the New York Metro which is 31 counties surrounding Manhattan.

RPA supports TLC's amended fatigued driving rules as they build upon the City's Vision Zero initiative and will help improve public safety, but the bulk of our comments address other benefits that enhanced for-hire vehicle trip data would bring to transportation policy.

New York City needs to create a uniform for-hire vehicle data collection standard that would apply equally to yellow taxis, green cabs and black cars, including

Taxi and Limousine Commission Meeting
January 5, 2017

102

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Proceedings

the both -- including both traditional car services and e-hails services -- I'm sorry, including traditional car services and e-hail services such as Uber and Lyft. Having more precise data on the travel patterns of all of these vehicles is essential for planning how to best use our finite roadway capacity and gain a better understanding of congestion and the performance of the City's dense street network.

In the past, we recognize that requiring black car operators to provide the same level of data as the yellow car taxi fleets and the green taxis would have an been excessive financial and administrative burden for many smaller companies but also much has changed over the past six years. E-hails or on-demand services have been introduced allowing the public to request a car in seconds from their smart phones, easier and more convenient than standing on the corner with an arm stretched in the air. Smart phones

**Taxi and Limousine Commission Meeting
January 5, 2017**

103

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25

Proceedings

are now equipped with GPS technologies and enough raw processing power to do everything and more than the specialized hardware and software required by the TLC, all for a few hundred dollars.

But the biggest development is, as has been mentioned, that there has been a surge in for-hire vehicles totaling at around 80,000 vehicles as of 2015, and this breaks down to around 13,600 yellow cabs, 7,700 green cabs, and 66,000 -- more than 66,000 black cars. It's estimated that about 40,000 of these, also has been mentioned, of these black cars are using or working with transit network companies such as Uber, Lyft and Via. These companies have the capability to provide the data the TLC is requesting and other black car operators may be able to do so if TLC is able to work with them.

Combined, these companies represent more than 75 percent of the for-hire vehicle fleet, and TNC companies have raised concerns that rider privacy would be

**Taxi and Limousine Commission Meeting
January 5, 2017**

104

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Proceedings

compromised but the TLC's proposal would protect the privacy of users, from RPA's perspective, just as it does today with the yellow and green taxi data.

To conclude, this request is reasonable and will allow policymakers and planners, like the Regional Plan Association, to better serve the public, and this is the most desirable outcome of any new rule. Thank you.

MR. WILSON: Thank you.

The next speaker is Nat Goldbetter.

MR. GOLDBETTER: Good morning, Commissioners. I'm Nat Goldbetter. I represent the League of Mutual Taxi Owners. It's an organization combined mostly of owner/driver operators in the City.

Pertaining to the fatigue rule as it is right now, we really don't have any problem, and talking for most of my members who have given me input on all of this stuff so I'm speaking on their behalf. The 10-hour days doesn't seem to be a problem for most of my men. The 60 hours a week is

**Taxi and Limousine Commission Meeting
January 5, 2017**

105

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16
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Proceedings

a little constraining to them. Frequently, drivers have to go out and work that extra day because either business is slow or cars are down with repairs and all kinds of reasons why at times they need to go out and make some extra money, especially in these times where competition is virtually killing us.

Vision Zero, I personally cannot see this ever happening as long as we don't address the traffic conditions as they are in the City today. I'm not sure if anyone -- any of the Commissioners go out or pay attention --

COMM. MARINO: I'm sorry. You don't see what happening?

MR. GOLDBETTER: Vision Zero.

COMM. MARINO: Vision Zero as a whole?

MR. GOLDBETTER: As a whole.

I don't know if you Commissioners go out and when you're driving around the City or walking around the City, take a look and see how many TC plates are there, Taxi

**Taxi and Limousine Commission Meeting
January 5, 2017**

106

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Proceedings

Commission plates. There are way, way, way too many of these vehicles out there. Traffic is at an all-time worst and this is not good, especially when we consider that emergency services are being tied up in traffic time and time again. This was cited in the New York Post articles of last month which went in depth into what the problems are with the traffic in the City and it's not getting any better. The Department of Transportation is not helping out, the TLC is not helping out and the City Council is not helping out, simply because we've allowed Uber, a predatory company to invade our space.

MR. WILSON: Mr. Goldbetter, can I just ask you to go back to addressing the rule? I mean, you're talking about larger issue of policy beyond what's covered by the rule and --

MR. GOLDBETTER: Well, everybody else is. They're going into all this data stuff. I'm making a point here.

MR. WILSON: But that's what the

**Taxi and Limousine Commission Meeting
January 5, 2017**

108

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Proceedings

something about this traffic and we need to do something about Uber. We have to control the number of vehicles on the street.

THE CHAIR: I think what Chris Wilson's comment was the rule deals with limiting hours and data collection. Other issues which are, you know, I'm not going to say that you don't feel strongly about them, they're just not the subject of today's hearing. And in light of the fact that there's lots of people that want to speak about the rule, I think we've gathered your main concern with the rule having to do with the 60-hour week and at this point we'll probably move on to the next speaker, unless you have an additional comment on the rule.

MR. GOLDBETTER: No, I don't have any additional comments on the rule. I think I made my point and that's all I'm here for.

THE CHAIR: Thank you very much.

MR. WILSON: Thank you very much.

**Taxi and Limousine Commission Meeting
January 5, 2017**

109

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25

Proceedings

The next speaker is Lucien Reynolds.

MS. REYNOLDS: Hi. Good morning, Commissioners. My name is Lucien Reynolds. I'm here to deliver the testimony on behalf of the Manhattan Borough President, Gale A. Brewer. Forgive me if I cough a little. It's -- dry air in the winters affects me.

My name is Gale A. Brewer and I am the Manhattan Borough President. Thank you, Commissioner Joshi, for holding this hearing on proposed rules changes designed to address the risks of fatigued driving and for the opportunity to testify today.

The rules discussed today are being proposed in the same spirit as those that prohibit driving while under the influence of alcohol and while text messaging while driving. Though less widely recognized as a danger, research has revealed that driving while fatigued can pose a serious risk when the driver's operating the vehicle while under the influence or distracted by technology. Being awake for 18 hours can lead to impairment equal to

**Taxi and Limousine Commission Meeting
January 5, 2017**

110

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Proceedings

when a driver is under the influence of alcohol.

Those who make their living behind the wheel, including truck and taxi drivers and drivers of for-hire vehicles, are often at the greatest risk of danger. The Taxi & Limousine Commission reports that the vast majority of its licensed drivers do not drive an excessive number of hours, but there are a small number who do.

This past July, TLC adopted common sense rules to address this problem by limiting the number of hours that a licensed taxi or FHV driver may work no more than 10 hours in any 24-hour period or 60 hours within a calendar week. The Commission delayed implementing the rule change while they analyzed the best way to measure the number of hours worked, and has since concluded that trip duration provides the most accurate barometer.

To obtain this information, TLC would need to use both pick-up and drop-off location data. The Commission already has

Taxi and Limousine Commission Meeting
January 5, 2017

112

1 Proceedings

2 understands.

3 MR. REYNOLDS: I'm sorry. Could you
4 repeat that?

5 THE CHAIR: We will not need to
6 anonymize because we will not put up any
7 identifiers for a driver or a vehicle, and
8 we're not going to --

9 MR. REYNOLDS: Yeah --

10 THE CHAIR: No, it's not up there.
11 There's nothing to anonymize. Yeah. That
12 column is blank.

13 MR. REYNOLDS: Information from the
14 trip will be anonymized in the sense that
15 the only thing that will be available
16 are --

17 THE CHAIR: The larger neighborhood.
18 Yes, exactly.

19 MR. REYNOLDS: Yeah. I think that
20 was the thrust of what she said.

21 THE CHAIR: Okay.

22 MR. REYNOLDS: If FHV's are to be
23 part of the mass transit contribution to
24 alleviating Manhattan's traffic woes, then
25 they must agree to share their data. New

Taxi and Limousine Commission Meeting
January 5, 2017

113

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25

Proceedings

Yorkers have come to accept -- expect that they can assess how well yellow and green taxi services are performing by looking up their data on the NYC Open Data Portal that we have all worked so hard to build.

Thank you, again, for the opportunity to testify today in support of the proposed rule changes. I look forward to working with the Commission to continue finding ways to make our streets a safer place. Thank you.

THE CHAIR: Thank you very much.

MR. WILSON: Thank you.

The next speaker is Peter Schenkman.

MR. SCHENKMAN: Good morning. Happy New Year. It's been awhile since I've stood here. I'm here to speak in support of the amended fatigued driver rules.

The streets of New York City are dangerous. I know this more now than ever before. I lost my dad this past summer on the streets of Queens to an aggressive driver who ultimately paid no penalty for his careless driving or my father's life.

Taxi and Limousine Commission Meeting
January 5, 2017

114

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Proceedings

I'm here to support the fatigued driver rules as a former CEO of a large bulk holder fleet and as the former Assistant Commissioner of Safety and Emissions at the TLC.

My truck drivers laid the rubber down from Maine to Virginia knowing that on-time pick-up and delivery was crucial, but more important was safety and making it home alive. Fatigued driving has been a problem for so long the Federal Hours of Service Laws date back to 1938. Now, while these laws do not apply to taxis and FHV's, both were designed to counter the proven cause and effect of lack of sleep and hours behind the wheel resulting in increased crashes. I applaud the TLC for taking these measures to increase the safety of all New Yorkers including the drivers themselves.

At the TLC, I was tasked with ensuring the safety of New York City taxis, which thanks to the S&E staff remain the safest in the world. New York City taxi

Taxi and Limousine Commission Meeting
January 5, 2017

115

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Proceedings

drivers are some of the best in the world. They also need to be the safest. Something we could not control was how long the drivers were on the road in these taxis. We always knew drivers were running day and night to make those extra dollars. Now the data proved it and TLC is using the data to positive effect.

Drowsy driving results in over a hundred thousand crashes a year. Eight states already have drowsy driver laws including New York, and there's a New York State Assembly bill that proposes to create the offense of driving while drowsy.

We all know driving a taxi is tough and it's gotten a lot worse in the shared economy thanks to TNCs, a complacent industry and relatively unsupported regulators across the globe. These changes are pushing drivers into longer hours, less sleep and ultimately more risky behavior just to make ends meet. Whether it's speeding a little bit more or creeping through intersections to nab that fare,

**Taxi and Limousine Commission Meeting
January 5, 2017**

118

Proceedings

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2 begin.

3 While Vision Zero is a laudable
4 goal, the most recent proposed rules will
5 only achieve one thing, it will hurt the
6 for-hire vehicle industry. The TLC is
7 seeking to combat driver fatigue, and while
8 everyone wants to stop preventable motor
9 vehicle accidents, the reality is that
10 placing further onerous regulatory burdens
11 on the for-hire vehicle bases will not
12 lower the accident rate. It will only
13 force more bases out of business.

14 Since new players hit the scene,
15 many bases have since closed and/or now
16 operating on ever-tightening profit
17 margins. While it is not necessarily the
18 City's obligation to keep mom and pop shops
19 alive, one would think the City wouldn't
20 want to destroy small businesses,
21 especially where there is absolutely no
22 evidence that there is an onerous -- that
23 these onerous proposed regulations are
24 going to have any effect on the City's
25 goal.

**Taxi and Limousine Commission Meeting
January 5, 2017**

119

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Proceedings

Before these new entrants came along, many bases still used two-way radios. There was no need for high-tech dispatch software and mobile apps. Although these features were attractive, they simply were not in the budget. The regulations that have been put in place, particularly the current reporting requirements for pick-up time and location, have forced bases to purchase costly technology that they previously did not need and could not afford.

Now, the TLC wants livery bases, who can barely afford the technology they have, to purchase even more advanced technology, or get their vendors to modify their software so they can provide additional, extensive data. This is not a simple task for a small base, and the cost is simply not feasible. It will drive them out of business.

COMM. MARINO: Can I -- may I interrupt you? Because I am a bit concerned for small bases. I'm also a

Taxi and Limousine Commission Meeting
January 5, 2017

120

1 Proceedings

2 small business owner --

3 MR. POWERS: Sure.

4 COMM. MARINO: -- so this is
5 something that rings -- that I have a
6 personal interest in --

7 MR. POWERS: Sure.

8 COMM. MARINO: -- to protect the
9 small business owner. So what exactly is
10 cost prohibitive? Because my understanding
11 so far is that there are software programs
12 out there that are not particularly costly
13 -- costly burdensome, if that's a phrase,
14 I'm not sure, but that aren't, you know too
15 overwhelming. So what is so cost
16 prohibitive about this?

17 MR. POWERS: It's two things I
18 believe, and I'm reading on this behalf,
19 but I think one of them is that the
20 existing sort of software and services are
21 expensive and you're adding more sort of
22 time and labor into those, and the second
23 is I think that there's additional related
24 pieces of technology and service on the
25 driver's side to exactly know when you're

Taxi and Limousine Commission Meeting
January 5, 2017

121

1 Proceedings

2 doing the pick-up time and location that is
3 an additional piece of technology in the
4 vehicle that you need. I know that --

5 COMM. MARINO: But what do you
6 mean -- I'm sorry.

7 MR. POWERS: You know, I will
8 provide that additional data. I know that
9 Avik and others have raised it so...

10 THE CHAIR: And we're happy to meet
11 afterwards and Nora will tell you if you
12 want to provide additional data on what you
13 think the exact increased expense would be.

14 COMM. MARINO: Yeah. Because my
15 understanding is that it really isn't that
16 much I mean, for software for maybe a
17 couple of hundred dollars. I mean, it's
18 just when you take a call you can enter
19 just as you need to, you know, tell the
20 driver or call it in on a two-way radio,
21 you can just pick up from point A, drop
22 them to point B and it's done, and the
23 software would do the rest. So I just, I
24 really want to understand what you think is
25 cost prohibitive because I don't see

Taxi and Limousine Commission Meeting
January 5, 2017

123

1 Proceedings

2 THE CHAIR: Sure.

3 MR. POWERS: I forget where I left
4 off.

5 THE CHAIR: I'm sorry.

6 MR. POWERS: No, no, no. I
7 appreciate it.

8 So the -- and then -- so we're not
9 just talking about technology. There are
10 significant costs associated with hiring
11 lawyers to ensure compliance, adding staff
12 to make sure that data is being gathered
13 and properly transmitted to the TLC.

14 The Commission has admitted that
15 almost all licensed drivers do not drive an
16 excessive number of hours. As such, how
17 does the Commission justify the imposition
18 of regulations that require bases to obtain
19 and utilize costly and burdensome
20 technology when there's not much proof
21 of -- that such actions will yield any
22 benefit?

23 Just to use my time efficiently
24 here, the initial driver fatigue rules were
25 implemented in July. There has not been

**Taxi and Limousine Commission Meeting
January 5, 2017**

125

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Proceedings

and meet with you guys, provide more evidence. And with all due respect, we don't believe this is the best way to proceed on the industry.

COMM. MARINO: Is your testimony written?

MR. POWERS: Yes.

COMM. MARINO: Can you please pass them up to us?

MR. POWERS: Yes.

COMM. MARINO: Thank you.

MR. WILSON: Okay. And thank you, Mr. Powers.

The next speaker is Ashwini Chhabra.

MR. CHHABRA: Good morning, Commissioners. My name is Ashwini Chhabra, and I'm here representing TLC licensed bases that use Uber. I'd like to start by saying that Uber wholeheartedly supports the goals of the City's Vision Zero initiative, and we further support the Commission's commitment to addressing driver fatigue.

However, there are aspects of the

Taxi and Limousine Commission Meeting
January 5, 2017

126

Proceedings

1
2 rules being considered today that are
3 unrelated to driver fatigue which we cannot
4 support. Specifically, we object to the
5 requirement to report drop-off location
6 information for FHV trips, not drop-off
7 time, or information about whether trips
8 are shared for the following reasons:

9 First, while drop-off time may be needed to
10 calculate trip duration, neither the
11 drop-off location nor whether a trip was
12 shared has any bearing on driver fatigue.
13 In fact, given uncertainty introduced by
14 traffic conditions, road closures and
15 numerous other factors, where a trip ends
16 is a highly unreliable measure of trip
17 duration. If the TLC wants to audit trip
18 duration, as others have offered, we'd be
19 happy to explore alternatives to reporting
20 destination data for the more than three
21 million FHV trips that happen every week.

22 Most importantly, these rules would
23 have an impact on the individual privacy
24 that the TLC and others and us perhaps have
25 not always appreciated. Two years ago,

**Taxi and Limousine Commission Meeting
January 5, 2017**

127

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25

Proceedings

over the objections of privacy advocates, the Commission voted to require FHV bases to report the pick-up time and location of every single trip. Since then, TLC has amassed a data set of over 165 million FHV pick-ups.

At the time, Gautam Hans, who's here today, then with the Center for Democracy and Technology warned, "If the TLC proposes at a later date to collect additional information such as drop-off location --"

THE CHAIR: I just want to note, we have collected lots of trip records but that's also reflective of a thriving business that creates all those trips.

MR. CHHABRA: Yes. That -- it's true.

That would -- "collection of additional information such as drop-off location that would raise further privacy concerns given the sensitivity of location information." Fast forward two years and we're not debating the collection of drop-off locations.

Taxi and Limousine Commission Meeting
January 5, 2017

128

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Proceedings

I'll skip around in my testimony because a lot of privacy experts that I'm going to be citing here are here and I'd rather you hear from them directly, but I do urge you to read in their entirety the written comments from Professor Albert Gidari, Director of Privacy at Stanford Law School, Center for Internet and Society. I've included copies of his letter in the materials I provided you, and I believe Professor Gidari shared a copy of his letter with the New York Attorney General's Office, the Bureau of Internet and Technology.

Professor Gidari writes,
"Transparency is an important privacy value. The Commission has taken the time to work with industry participants on these rules, but there is little evidence that consumers of these services have been told the basic facts about governmental data collection surrounding their trips and how the data is used or disclosed. Consumers are an important stakeholder here and their

**Taxi and Limousine Commission Meeting
January 5, 2017**

131

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Proceedings

been with taxis and I think much has been made of well, if you collect this for yellow taxis and so why not for FHV's, and I haven't -- I think there's a good reason not to do it for FHV's just because you've done it for taxis. When the policy was implemented in 2008, we lived in a different world. You didn't see the numerous data breaches that you've seen in the intervening years. Taxis --

COMM. MARINO: But we lived in a different world whereas if I -- I mean with our phones, someone always seems to know where we are just by the nature of our phones and, you know, if you order something on Amazon, the next thing I know I'm getting an ad for it on Facebook. I mean, it is a different world and I do understand your concern but, I mean, you go over a toll and the government knows about it. So there's -- it is a different world, but that can be -- that arguing can be used on the flip side of that as well.

MR. CHHABRA: It is a different

**Taxi and Limousine Commission Meeting
January 5, 2017**

133

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Proceedings

corporations we deal with in much more detail than with government because they have your credit card, they know your personal likes and dislikes, what restaurants you frequent and the like.

So I don't know that it's so black and white. I do appreciate you saying it, you know, it is a different world than when the Commission voted on TPEP but it's not black and white that it was a bad decision to vote on TPEP.

MR. CHHABRA: I do want to answer the question though which has been raised several times about well, yellow taxis report this so why not FHV's. Yellow taxi trips predominate in Manhattan, as you pointed out, which is a population dense area. FHV trips do a lot -- FHV bases do a lot of their business in other parts of the City where there are single occupancy homes, where there are fewer trips happening, where pick-ups are generally done point-to-point, so when I request a trip it is to my home address to be dropped

Taxi and Limousine Commission Meeting
January 5, 2017

136

1 Proceedings

2 as a mischaracterization. If I live in a
3 house 123 Gold Street somewhere in Bayside,
4 it's either myself or my spouse who took
5 that trip, and so it is personally
6 identifiable. If you want to go onto a
7 search engine and type in an address, you
8 will find out --

9 COMM. MARINO: But what if you had a
10 friend over?

11 MR. CHHABRA: There are certainly
12 trips that aren't personally identifiable
13 but there are a heck of a lot of trips that
14 are, and my -- the reason I'm urging
15 caution here is for the trips that are
16 identifiable. So it's not so much that
17 this is ending up on an Open Data website.
18 It is that the government is now in
19 possession of trips that identify me going
20 to places that I don't necessarily want the
21 government to be aware of. That's the
22 feedback we got from riders.

23 COMM. MARINO: I would like to --

24 THE CHAIR: I think we -- let's -- I
25 know you want to finish, so we'll make sure

Taxi and Limousine Commission Meeting
January 5, 2017

138

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Proceedings

East Germany told me what it's like to live in a country of surveillance. You do not feel safe."

Several other riders wrote to say they "will curtail or end their use of TLC-licensed services if the Commission proceeds with these rules as written." And visitors to the City wrote to say that "the outcome here will impact whether they visit the City again."

One thing that's clear from these messages --

COMM. MARINO: Will impact what?
I'm sorry.

MR. CHHABRA: Whether they visit the City again.

One thing that's clear from these messages is that government collection of rider location data is simply too big an issue to consider as adjunct to the issue of driver fatigue. It's an issue riders feel passionately about and any decision about this policy needs much more involvement by the general public than has

**Taxi and Limousine Commission Meeting
January 5, 2017**

140

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Proceedings

need to audit the duration data and we think there are other ways to get at that without the wholesale download of driver trip destination and location information.

I thank you for your patience, and at this time I'm happy to take any questions you may have.

THE CHAIR: Thank you.

MR. WILSON: Thank you. And the next speaker is Gautam Hans.

MR. HANS: Good afternoon. I'm Gautam Hans. I'm a teaching fellow at the University of Michigan Law School in our Entrepreneurship Clinic. I focus on innovation, technology, and intellectual property. Today I'm speaking in my individual capacity, not on behalf of the university, the law school, the clinic, or any of our clients. I appreciate your time today.

A number of the issues that I was going to speak about have been discussed already so I'll set them aside, but I'm happy to discuss them particularly in

**Taxi and Limousine Commission Meeting
January 5, 2017**

141

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Proceedings

privacy concerns and I'll highlight a couple of points.

First, I firmly believe in the TLC's need to protect New Yorkers and promote the goals of safety, non-discrimination and compliance. As a regulatory agency, I think it's pretty well-established the need to do so. My scholarship particularly focuses on the intersect between administrative agencies and privacy and innovation, particularly my concerns are how those goals can be balanced and I think this debate and discussion today highlights some of those concerns.

My proposed solution in my scholarship focuses on government agencies' adoption of two organizing principles in designing data mandates, first one based on the fair information practice principles which is a sort of longstanding data management framework dating back to the 70's that has been adopted by federal, state and international governments.

Second, I argued for a least

**Taxi and Limousine Commission Meeting
January 5, 2017**

142

Proceedings

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2 restrictive means of tests to discuss the
3 balance between the governmental goals and
4 the method by which they achieve those
5 goals. And I have some concerns about
6 whether or not this particular proposal
7 meets both of those frameworks that I adopt
8 in my scholarship, but in particular, the
9 restricted means question, which I believe
10 other speakers have talked about, whether
11 or not duration can be appropriately
12 measured through pick-up and drop-off or
13 some other means. I understand that
14 there's concerns about auditing. I support
15 those concerns. I would say that
16 spot-checking might be a more effective way
17 of doing so. There may be concerns from
18 the TLC about whether it's actually true
19 but I think that points to the need for
20 further debate.

21 In terms of the data management
22 question and the -- imply or implicate, I
23 guess I would highlight two things. One, I
24 now there's a lot of discussion about data
25 implication and anonymization. These are

Taxi and Limousine Commission Meeting
January 5, 2017

143

1 Proceedings

2 pretty technical terms. I fundamentally
3 don't think complete anonymization is ever
4 possible. I understand that in the Open
5 Data initiative, that the data that you
6 release will only -- won't contain any
7 information that is tied to a trip or a
8 rider, but that information is still being
9 collected by the agency even if it's not
10 being released to the public. And that is
11 the -- the concern is not just about the
12 open government issue but also about data
13 breach issues that have been raised,
14 third-party sharing which I don't think is
15 foreseen but can happen.

16 And in terms of re-identification,
17 the other problem is not just the data set
18 that TLC releases, but also other sets that
19 exist.

20 THE CHAIR: I mean, it's funny that
21 you're bringing up data breaches and that
22 is something that actually was a concern of
23 City Council for our licensees because they
24 collect even more data than we do and there
25 was an instance where there was a data

**Taxi and Limousine Commission Meeting
January 5, 2017**

144

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Proceedings

breach, and driver information was given out and the Attorney General settled it. And so now, just so you know, and this is a little off subject, but our licensees have to have security and privacy protocols as part of the licensing process because of the amount of data which is much more detailed than we collect, that they collect on the trips.

MR. HANS: Absolutely. Well, I'm glad to hear that.

I think the other final point I would make is that the concern about how this is different from other vehicles that collect information and ties into the concerns I have about how government agencies can increase the number of data they collect over time. These -- some of these rides are not just taken by companies that operate in New York, but also operate in other jurisdictions unlike the taxicabs that do operate here. You know, the taxicabs in New York aren't operating in D.C. or in LA, but some of these companies

Taxi and Limousine Commission Meeting
January 5, 2017

145

1 Proceedings

2 have ride information that pertains to
3 non-New York trips. I have concerns about
4 that as well. It's not -- my concern is --

5 THE CHAIR: We wouldn't get that
6 information.

7 MR. HANS: I believe that to be true
8 at this point. I guess my concern is that
9 we do see from some agencies the increase
10 in data collection overtime, and I know
11 that's not being contemplated presently but
12 those issues have risen in the past in
13 other contexts.

14 THE CHAIR: Just so you're aware,
15 we've been collecting the pick-up for
16 awhile and we have not had any instance
17 where companies are giving us data from
18 other -- other than the ones done by elite
19 TLC-licensed drivers and TLC-licensed
20 vehicles from their licensed base, but I
21 appreciate your acknowledgment that these
22 are national and international companies
23 that we're dealing with and their data
24 doesn't encompass just New York passenger
25 data, it actually encompasses worldwide

**Taxi and Limousine Commission Meeting
January 5, 2017**

147

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Proceedings

We operate in a highly efficient way, and the percentage of time that our driver partners use our platform while operating an empty car is quite low. As a result, this new way of calculating hours will effectively require that Via drivers be on the road fewer hours than drivers with other companies who spend more time cruising with no passengers. Nevertheless, we recognize you're balancing many considerations, and overall, we think you've struck an appropriate balance in the current proposal on the hours. However, we're deeply concerned with the new data reporting requirements included in this most recent proposal. In particular, we don't believe the TLC should require drop-off location information not on geographic location or other data. We don't think it's necessary to implementing New York enforcing the rule.

Second, if the TLC were to have the detailed data it proposes in addition to pick-up times and locations, which we

Taxi and Limousine Commission Meeting
January 5, 2017

149

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Proceedings

to protect this information and we prefer not to have to turn it over in the first place, especially because we don't think it's necessary to the rule at hand which is about driver fatigue.

Furthermore, in a world of --

THE CHAIR: And the rule is about driver fatigue but there are also some, and as Council Member Lander talked about, but for us as an agency there's some additional benefits to it, and one of the most significant ones is consistent enforcement and administrative enforcement which takes the burden off of inspectors doing hoots on the ground enforcement as well as in foreign policy making.

So it is driver fatigue. It's the ability to audit and if there's added benefits, our charter allows us to have jurisdiction to impose -- to make rules on broad public policy relating to for-hire transportation and as it relates to public transportation. So where these trips are happening is certainly part of that

**Taxi and Limousine Commission Meeting
January 5, 2017**

150

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Proceedings

mandate.

MR. GREENAWALT: Yeah. And I think our view on that is that we don't believe it's necessary to driver fatigue. We understand there are obviously a whole host of public policy reasons that you use data and that you want potentially additional data, but we just kind of feel like that should happen as a separate robust process and discussion with us and others in the industry, as well as people in the public interest world and kind of take that away from the driver fatigue discussion.

And I think, you know, I think for some of the points that have been raised, the public policy benefits for having this, you know, I think we question whether you would really need, you know, even if we're wrong if you don't need it at all, like do you really need to pinpoint drop-off location to achieve those public policy benefits? And I think there's lots of interesting, you know, complicated questions around that that we would happily

Taxi and Limousine Commission Meeting
January 5, 2017

151

1 Proceedings

2 discuss.

3 COMM. MARINO: How close to the
4 drop-off would you find acceptable?

5 MR. GREENAWALT: I mean, again, we
6 think that any sort of drop-off information
7 is not --

8 COMM. MARINO: Any sort?

9 MR. GREENAWALT: -- not relevant to
10 driver fatigue. Okay. If there are other
11 public policy purposes I think we should
12 have a discussion about that. Obviously
13 something broader than pinpoint location
14 would be preferable than pinpoint location.
15 So, you know, I heard statements earlier
16 that the taxi zone, maybe that would be too
17 broad. I mean, there's a lot of stuff in
18 between that where I think, you know, we
19 can at least have a discussion about
20 whether it achieves -- whatever the true
21 public policy goal is against the
22 information that we feel, you know, we want
23 to protect and that we feel implicated to
24 individual privacy as well.

25 Furthermore, in a world of

Taxi and Limousine Commission Meeting
January 5, 2017

152

Proceedings

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2 increasing cybersecurity challenges, I
3 don't think we should underestimate the
4 risk of hackers obtaining trade secrets. I
5 think that's real. I was, before
6 this -- before this job, I was a federal
7 employee and had all of my information
8 hacked that was with the Office of Personal
9 Management, the Federal government, so this
10 is, you know, I think a real issue that
11 there are entities out there trying to get
12 at this information, both domestic and
13 foreign, and we should just not
14 underestimate that.

15 We want New York to be a hub of
16 innovation. We just worry that
17 requirements such as these discourage
18 start-ups from basing their companies in the
19 City like we are headquartered here or --

20 COMM. MARINO: Can I just ask you --

21 THE CHAIR: I just want to note, we
22 do have at least an hour and 15 minutes of
23 more speakers so I'm really going to
24 encourage people to continue conversations
25 outside of the hearing if we can't cover it

**Taxi and Limousine Commission Meeting
January 5, 2017**

154

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Proceedings

figured I'd present this or my case as a privacy advocate and what about this proposal sort of concerned me just upon reading it. And I guess I would say that my comments focus on how this proposal sort of seems to challenge what are longstanding privacy principles of purpose, specification and use limitation. In short, these principles require entities to collect and store data in a deliberate way, keeping only what is necessary for a defining purpose.

CT regularly questions industry practices when companies claim to collect information for one purpose and ultimately use it for others. In fact, we have very recently raised concerns with some of Uber's efforts to collect additional location information from passengers. We believe that embracing purpose, specification and use limitation is important not just for the private sector, it's also vital for any public sector initiative and regulatory proposals. And

**Taxi and Limousine Commission Meeting
January 5, 2017**

155

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Proceedings

that's sort of the bugaboo today. The TLC's proposal does not really impose any such restrictions on its own use of this information once it has been -- once it has been collected and shared from for-hire vehicle companies.

Now, I understand you have greater ambits here and this just sort of came up in the last back and forth, but again, this is primarily -- it has been presented to the public as a rule to address driver fatigue.

THE CHAIR: And in the Statement of Basis and Purpose, there are some additional reasons set forth.

MR. JEROME: Agreed. And so I guess, again, speaking as a privacy advocate, it sort of seems like you want to have your cake and eat it too a little bit. You know, when I see things like that this information is going to be used in support of other enforcement actions, well, that sort of opens the slippery slope to what the limit is on the use of this

Taxi and Limousine Commission Meeting
January 5, 2017

158

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Proceedings

MR. JEROME: That may be far. I guess reiterating what prior speakers have said, I guess it would just be helpful to sort of have that clearly laid out. That type of justification may be legitimate and it certainly helps alleviate my concerns but it's not present in the proposal that's currently drafted.

In any event, thank you again for the opportunity to deal with lots of people complaining about privacy. I know that's sort of irritating to all of you but CT definitely appreciates the opportunity to be heard.

THE CHAIR: And of course you can continue the conversation with us afterwards.

COMM. MARINO: And I just want to point out, I don't find a discussion about privacy to be irritating at all. You know, I'm supporting these rules at this point but I'm -- I'm listening intently to what everyone's saying because privacy is incredibly important, so please don't

Taxi and Limousine Commission Meeting
January 5, 2017

160

Proceedings

1
2 the newly revised -- proposed fatigue
3 driving rules today, and I'd like to begin
4 by saying that LANY understands and
5 supports the City's concerns for public
6 safety. It would be difficult really for
7 any us to stand here today and try and
8 defend the position of allowing unlimited
9 or excessive driving hours, particularly
10 given the well-documented effects of
11 fatigue driving that are included in the
12 TLC's Statement of Basis and Purpose Rules,
13 as well as a lot of the testimony we've
14 heard earlier here this morning. These
15 effects combined with the explosive growth
16 in the for-hire vehicle sector and a
17 corresponding increase in vehicle crashes
18 that were recently pointed out in a New
19 York Post article, certainly suggest that
20 additional attention needs to be paid.

21 So we're with you a hundred percent
22 of the way on the need for increased focus
23 on safety. However, we do not feel that
24 expanding the current data collection
25 process is the right way to go about that.

**Taxi and Limousine Commission Meeting
January 5, 2017**

161

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Proceedings

It's no secret that growing public concerns over privacy issues with the current process are escalating at a rapid pace. Recent coverage in media and published legal opinions are expressing increased concerns about the privacy and particularly the security of personal data being collected by the TLC. Now, we've heard a lot of about that here this morning and I'll let others continue to articulate that point of view.

We believe there are also some very questions as to the necessity and the effectiveness of expanding what's already a massive data collection process in attempt of reducing specifically driver fatigue. By TLC's own admission and I quote, "Almost all TLC licensed drivers do not drive an excessive number of hours." The TLC has also expressed concerns that some drivers might be tempted to work dangerously long hours, and then goes on to state that, "Even with reduced daily limits, most drivers would not need to modify their

**Taxi and Limousine Commission Meeting
January 5, 2017**

162

Proceedings

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2 driving hours." Yet, in spite of such
3 recognition by the TLC, a massive data
4 collection process continues to get bigger,
5 adding additional trip details to an
6 already intrusive submission process. And
7 all of this is in effort of catching the
8 few who may or may be tempted to exceed
9 daily safety driving limits.

10 We believe that better solutions to
11 the City's concern can be found through
12 more communication and specifically
13 interaction between the TLC and the very
14 stakeholders who will be most impacted by
15 these new rules. By working more closely
16 together, we believe that we can achieve
17 solutions that would target the few drivers
18 that you've expressed concerns about,
19 rather than all drivers, solutions that
20 would not add to growing concerns over the
21 privacy concerns that have been raised
22 today, and solutions that would not add to
23 the already significant technical burden
24 that many smaller and mid-size operators
25 quite frankly are struggling with complying

Taxi and Limousine Commission Meeting
January 5, 2017

163

1 Proceedings

2 with today, let alone before expansion.

3 So in closing, I do also want to
4 note that we did recognize the TLC's
5 concern that you brought up about -- or our
6 concern about additional enforcement
7 purposes stated in the original rule as
8 well that would be undertaken in the
9 expanded data collection process. And
10 again, I would say that we would really
11 urge the TLC to change course, spend more
12 time working with the base operators in
13 coming up with effective solutions to your
14 specific concerns, be them driver fatigue,
15 be that additional specific concerns about
16 not breaking the rules, and coming up with
17 effective solutions to your specific
18 concerns versus expanding what we believe
19 is already overzealous data mining no
20 matter how well the intent. So thank you
21 very much.

22 THE CHAIR: Thank you.

23 MR. WILSON: Thank you.

24 The next speaker is Rakesh Patel.

25 (No response.)

**Taxi and Limousine Commission Meeting
January 5, 2017**

164

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Proceedings

UNIDENTIFIED SPEAKER: There's nobody left in the overflow room.

MR. WILSON: There's nobody left. Okay. So he must have gone.

So the speaker after that, Lee Abramson.

MR. ABRAMSON: Good afternoon. I'm a driver in the FHV industry and I appreciate the opportunity to speak to the Commission in support of the proposed 10-hour fatigue rule. This is my first time at a hearing so bear with me, but I've watched many past hearings using the livestream app.

I do understand some of the concerns of previous speakers in regards to questioning how this will help the issue of fatigue drivers, but I also recall from previous meetings that in the proposed initial iterations of the rule, it was stated that these rules won't affect the majority of drivers. This rule is meant to target those that are already pushing the limits of driving, and are a current threat

Taxi and Limousine Commission Meeting
January 5, 2017

166

1 Proceedings

2 (No response.)

3 MR. WILSON: Okay. I think he's not
4 here.

5 The next speaker is Michael
6 O'Loughlin.

7 MR. O'LOUGHLIN: Happy New Year. I
8 assume it is still 2017.

9 Good morning. I'm Michael
10 O'Loughlin. I speak today for Cab Riders
11 United, a passenger voice for improving the
12 safety, and the quality of service and the
13 environmental impact of the City's taxi and
14 for-hire vehicle industry.

15 Cab Riders United strongly supports
16 the goal of making New York City's taxis
17 and for-hire vehicles safer for everyone
18 involved, the drivers, the passengers, the
19 pedestrians, and bicyclists and others
20 outside of the vehicle, and we support, as
21 we did in June, evidence-based regulations
22 to limit driver fatigue and make us all
23 safer. And we genuinely understand and
24 appreciate the amount of time that TLC
25 staff and others have put into trying to

**Taxi and Limousine Commission Meeting
January 5, 2017**

167

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Proceedings

craft these regulations. So with that said, this is awkward but we are not in a position to support the regulations as they are proposed today.

Regarding the revised driving fatigue rule, we're concerned that tallying only those driving hours spent transporting passengers will under-count driver hours spend behind the wheel thereby adding to the danger for drivers, passengers, and the New Yorkers outside the vehicle. Our conversations with those knowledgeable in the field point to about a 40 to 60 percent occupancy rate as a rule of thumb for taxis and for-hire vehicles. Using a 50 percent occupancy rate to make the math simple, we can calculate that the TLC's proposed rule with a 10-hour cap for transporting passengers would actually allow FHV drivers to drive their vehicles for closer to 20 hours per day, far beyond what we can consider safe.

What's at stake in the difference between 10 hours and 20 hours? We all

Taxi and Limousine Commission Meeting
January 5, 2017

168

Proceedings

1 know. We've heard it from multiple
2 witnesses. It's there in the Statement of
3 Basis and Purpose from the original rules
4 proposed. Please note that in none of
5 these instances, none of the witnesses,
6 nothing that was in print in June, nobody
7 mentions whether the fatigued drivers in
8 these studies are transporting passengers.
9 Fatigued driving is fatigued driving,
10 whether there is a passenger in the vehicle
11 or not. If I am passenger who gets in a
12 vehicle and that driver is fatigued because
13 he has been driving without a passenger, he
14 is still fatigued and I as a passenger am
15 still put at risk, or as one of our
16 supporters put it, when I drive Upstate,
17 I'm exhausted at the end and it doesn't
18 matter whether my wife is riding with me or
19 not.
20

21 Finally, please note that while a
22 relatively small percentage of the drivers
23 may choose to drive the maximum number of
24 hours permitted, under the proposed rule,
25 it only takes one exhausted driver to end

Taxi and Limousine Commission Meeting
January 5, 2017

169

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Proceedings

the life of another fragile, beloved human being, as was the case when 88-year-old grandmother Luisa Rosario was struck by thousands of pounds of steel piloted through a dense urban environment by a driver who reportedly had already worked 16 hours. The rule you are considering today would allow the driver to remain behind the wheel for up to 20 hours, 25 percent more than the driver who was behind the wheel when Luisa Rosario was killed.

Cab Riders United strongly urges the TLC to seriously and urgently consider replacing the proposed rule today with another approach to reducing the risk of fatigued driving, such as the original proposed rule or greater use of in-vehicle technology. I'm trying to read you as much as I can here.

If the Commission chooses to move forward with the proposed rules today and measuring FHV drivers' time they'll need behind the wheel when they're transporting passengers, we align ourselves with our

**Taxi and Limousine Commission Meeting
January 5, 2017**

170

Proceedings

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2 Vision Zero colleagues and transportation
3 alternatives and would urge you to take a
4 precautionary approach and begin with a
5 6-hour time limit. We believe that will be
6 more consistent with Vision Zero, stated
7 priority of the Mayor, the City Council,
8 and the Taxi & Limousine Commission, and we
9 understand that some drivers feel compelled
10 by economic necessity to work excessive
11 hours, but no one should have to work
12 unsafe hours or inhumane hours, or in
13 unsafe or inhumane conditions in order to
14 make ends meet in New York.

15 Cab Riders United would support
16 drivers keeping a greater share of the
17 money that passengers pay. Indeed, just as
18 research shows that rested drivers are
19 safer, research also shows that better pay
20 and working conditions also are associated
21 with safety.

22 Regarding the FHV trip data
23 reporting requirements, Cab Riders United
24 has been in the past and may very well be
25 in the future, open to carefully manage

Taxi and Limousine Commission Meeting
January 5, 2017

171

Proceedings

1 trip data collection for safety and
2 enforcement, for consumer protection, for
3 informed policy making. Indeed we can
4 imagine and this is somewhat eluded to in
5 the Statement of Basis and Purpose, that
6 there may be other arguments for collecting
7 the trip data here proposed but those are
8 not the primary leg that this data
9 collection rests on today. Instead, TLC
10 proposes to collect the data primarily for
11 the purposes of enforcing the proposed
12 driver fatigue rule because we regard the
13 driver fatigue rule at it is proposed today
14 to be gravely flawed. We cannot,
15 especially with the privacy concerns that
16 have been raised, we can't stand here today
17 and endorse the collection of that
18 additional data.

19
20 We welcome continued dialog in the
21 matter, and thank you for the opportunity
22 to speak with you today.

23 THE CHAIR: Thank you.

24 MR. WILSON: Thank you.

25 And the next speaker is Geovanie

Taxi and Limousine Commission Meeting
January 5, 2017

174

1 Proceedings

2 THE CHAIR: You bring up an
3 interesting point that I hadn't thought of
4 so thank you.

5 MR. ROSARIO: But that is all.
6 Thank you.

7 THE CHAIR: Thank you.

8 MR. WILSON: Thank you.

9 The next speaker is Mario Sanchez.

10 MR. SANCHEZ: Hi. Name name is
11 Mario Sanchez. I'm a New York City yellow
12 cab driver and for the last past number of
13 hours all we hear about data from these
14 companies that mislead people with their
15 data anyway to decide who's doing a
16 one-night stand, or what store, or what
17 executive's in their car. Now they're
18 worried about handing over data to you
19 guys. It's kind of hypocritical.

20 But what I'm here to talk about is
21 what nobody else is talking about, how it
22 affects the drivers. Now, you look at
23 other safety sensitive jobs like the MTA.
24 The MTA let's their bus drivers drive 14-to
25 16-hour days 12 days straight before

**Taxi and Limousine Commission Meeting
January 5, 2017**

176

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Proceedings

of ridiculous. Because if you're an independent contractor like we all are and we all are growing our own business, what businessman can't work seven days a week? What agency tells him no, you can't go to your store everyday and open it for ten hours?

THE CHAIR: So just -- and we're happy to discuss more your particular -- especially we can go over your particular schedule, but the 60 hours is not limited to certain days, so you could work seven days and have -- split those passenger hours over those seven days, just so you know.

MR. SANCHEZ: And when I came here I understood that more, and the consultant that put together that little nice presentation is great because let's just imagine you're in a New York City yellow cab, one customer drops out at 9:20, the next pick-up comes up at 9:25, 35 minutes with her, 5 minutes with him, 5 minutes with them and I have to sit down there and

Taxi and Limousine Commission Meeting
January 5, 2017

177

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Proceedings

write this all together and not get honked at, not get chased by the police. I can't even have enough time to put my money back in order before somebody else is jumping in or somebody's honking at me.

So the key thing to me is please find a way that these cars can have a down -- a countdown clock or have the updated system where it's a screen and we can really just thumb through and say okay, now I know where I am, because it always seems that everybody forgets about the yellow cab drivers. We're not the white elephant in the room. We're TLC's stepchild in the corner that just gives up all the information and gives up all the data, and every time we open our mouth we get kicked in our teeth.

THE CHAIR: The screen you're talking about is more like the iPad type of screen?

MR. SANCHEZ: Yeah. The Verifone has a decent one where you can actually go into trip data, go through all your trips,

Taxi and Limousine Commission Meeting
January 5, 2017

178

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Proceedings

click on it and get all the information.

THE CHAIR: Okay. Excellent.

MR. SANCHEZ: But most of the garages have the smaller triangle box where you have to turn numbers --

THE CHAIR: Right.

MR. SANCHEZ: -- they're hardly that you can see and you can't really get that information, and now you're hoping the driver can accurately write all this information down at the end of his trip, go home and say okay, I did ten hours today, I got another three hours left for tomorrow, you know, without getting that mail and then hey, come in, you got a \$200 fine. Do you know what I mean.

So it just seems like -- another issue I have is about all the drivers that work for F -- the for-hire vehicles, one works for Uber, one works for Lyft. How are you guys going to track that that driver drives ten hours for Uber and then went to Lyft for another six hours? You know, yes, you'll look at the Uber

**Taxi and Limousine Commission Meeting
January 5, 2017**

180

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Proceedings

we're forgot about. It seems like it's just everybody talks about data, everybody talks about Uber, everybody talks about these companies, but the yellow cab drivers, they're just trying to work hard to make a living. It seems like nobody really cares about us because not too many people said anything about yellow today here. Thank you for your time.

THE CHAIR: Thank you.

MR. WILSON: Thank you.

The next speaker is Steven Savader.

MR. SAVADER: Good morning. My name is Steven. I am a driver with the FHV doing Uber and other companies as well. Thank you for letting me be here to speak in front of everybody here. I'm a little nervous so please excuse me.

I'd like to first say that as a driver, if Lyft, Uber or other companies in this fatigue rule would just cap the drivers, we wouldn't feel the need to drive more hours, do more work to make the same amount of money. We had a decrease of

**Taxi and Limousine Commission Meeting
January 5, 2017**

181

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Proceedings

income for us drivers last year and that made us drive more. On paper, it looks like we're getting more but we're getting less. So if we as drivers were to be able to drive less and make more money, we wouldn't need to drive more hours and get what we need to get.

So this 10-hour rule is great but it should be more stricter, more enforced, maybe 8 hours because driving with 8 hours of passengers is a long time as it is, even 10 hours, not accounting all the drivers that are driving everywhere without a passenger. So with that being said, I would propose, perhaps, capping the drivers, cap something and I'm sorry for all drivers to be saying this but there's just too many drivers and I have to drive more to make the same amount of money. So thank you for your time.

THE CHAIR: I do want to note, if we have groups where there's several representatives from one group, I think it would be helpful if you come up together,

Taxi and Limousine Commission Meeting
January 5, 2017

182

1 Proceedings

2 that way everybody gets a chance. We don't
3 want the people at the end of the hearing
4 to feel like they're shortchanged because
5 they're further down on the list. You
6 know, everybody who speaks is just as
7 important but we'd like to make sure we get
8 through it -- the hearing in a reasonable
9 time.

10 MR. WILSON: And the next speaker is
11 Mohammad Rana.

12 (No response.)

13 MR. WILSON: All right. The speaker
14 after that, Manuel Rocano.

15 (No response.)

16 MR. WILSON: Enrique Flores.

17 (No response.)

18 MR. WILSON: Segundo Barrira.

19 (No response.)

20 MR. WILSON: Okay. Alsredo
21 Encalada.

22 (No response.)

23 MR. WILSON: I'll probably
24 mispronounce this one, Doucoure Manyadou.

25 MR. MANYADOU: Good afternoon. It's

**Taxi and Limousine Commission Meeting
January 5, 2017**

183

1 Proceedings

2 Doucoure Manyadou, D-O-U-C-O-U-R-E.

3 THE CHAIR: I apologize.

4 MR. MANYADOU: It's okay.

5 Good afternoon, Commissioners. Good
6 afternoon, everybody. I've been here since
7 8:00 and I'm very confused about all the
8 things that were said here. So the 140,000
9 people who are in the streets are not here
10 being a representative. Do you feel you
11 said anything today that's going to relate
12 to taxi -- actual taxi drivers who is in
13 the street? Because everybody come here
14 with their interest of data, data breach,
15 data -- people's money is taken out of
16 their pocket and they're in the street,
17 ladies and gentlemen, they're not here.

18 I invested \$40,000 on a
19 handicap-accessible green taxi, one that I
20 drive myself. I will lose it this week.

21 COMM. MARINO: How?

22 MR. MANYADOU: Because here's my
23 whole entire schedule. I will leave at
24 6:00 a.m. in the morning to go drive until
25 11:00, my choice, I go home with my family.

**Taxi and Limousine Commission Meeting
January 5, 2017**

184

1 Proceedings

2 Second --

3 COMM. MARINO: I'm sorry. You leave
4 at 6:00 in the morning?

5 MR. MANYADOU: 6:00 in the morning.

6 COMM. MARINO: And come home when?

7 MR. MANYADOU: Drive, come home
8 10:00, 11:00.

9 COMM. MARINO: In the middle of the
10 night?

11 MR. MANYADOU: Yeah. Sometimes you
12 get someone who's going to JFK. You're an
13 independent contractor, you can take care
14 of that. And I come back and do the second
15 rush hour which is 4:00 or 5:00 when kids
16 are getting out school, you work until 8:00
17 at night. The point of this is not the how
18 many hours that you work. It's the TLC is
19 making a schedule for independent
20 contractors, how many hours you can work.
21 And if you actually read the recent rulings
22 on the independent contractors in the
23 Eastern District it's 30. If you make any
24 policy that is taking independent
25 contractor profit or lose profit it's

**Taxi and Limousine Commission Meeting
January 5, 2017**

186

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Proceedings

person individually. Done. So if I choose to work 16 hours, it's my choice, but I know that I'm not stupid enough to make sure that be there and kill or hurt someone. You have some people in the street you go 10 miles an hour, they're doing Snapchat, Snapchat in the front of your car. We're aware of all that.

Every single person who testified today, in terms of for highway patrol and this and that, this is called CDL-licensed drivers. It requires a physical aspect of it, drive across country, across towns, same places that have them to put a GPS tracker so they can tell how many hours they work. That same city, California and Chicago, you cannot rent a U-Haul truck and drive it 24 hours through the city or any other place. If you stop for taking a red light, they give you a ticket because you are not required. It's called a commercial drivers.

So taxi drivers, we live within the city. We're driving three hours, you meet

Taxi and Limousine Commission Meeting
January 5, 2017

187

1 Proceedings

2 your cousin; we drive five hours, we go
3 eat.

4 COMM. MARINO: But the time doesn't
5 take all that into consideration, right?
6 If you're not driving and you're not -- I
7 mean, that's not added in so how does it
8 affect you?

9 MR. MANYADOU: Ma'am, it's not a
10 matter of consideration of how many times.
11 You can allow the --

12 THE CHAIR: Is it the principle?
13 It's not so much the time, it's the
14 principle that we're proposing a rule that
15 would have any limit on you as an
16 independent contractor?

17 MR. MANYADOU: That's one of them.
18 Two, my most concern is not the people
19 that's here that you're talking to. It's
20 the one that you're going to send the
21 ticket to, that according to TLC can
22 (inaudible).

23 THE CHAIR: Right. One thing I want
24 to do say, and we do have to keep moving,
25 is the point of this is education, outreach

**Taxi and Limousine Commission Meeting
January 5, 2017**

189

Proceedings

1
2 public hearing at TLC, I can't get one
3 person to go to, and do you know why,
4 because you guys are completely two
5 separate entities. I have never seen no
6 place that did not pay attention to their
7 product. Your product is not your
8 partners. Your product is the people
9 that's in the street, the 140,000 people
10 that's there. So you have to get your
11 message behind these people and get there.
12 That's the reason why TLC concentrates so
13 much on drivers and the tsunami hits us.
14 All these apps you see, we can have that
15 and table this a long time ago. They're
16 here because we were not prepared.

17 THE CHAIR: So what I'd like to do
18 is, I don't know if Kala Wright or Erica
19 are in the back. I know you're shrugging
20 your shoulders but --

21 MR. MANYADOU: Here's what I'm
22 saying, Commissioner --

23 THE CHAIR: -- we do have to wrap
24 up, and I would like Kala to get your card
25 because we're going to take you up on the

**Taxi and Limousine Commission Meeting
January 5, 2017**

192

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Proceedings

is our concern as well, especially because we deal with the small bases that have to -- and I think Jose Altamirano, our President, will speak more on the burden, the economic burden that Commissioner Nora Marino was actually trying to find out, what are the implications, and the implications also talk about the driver.

I think the driver before us, Doucoure, actually he addressed it in a simple fashion. But also I think that fatigue, stress, being tired, it's all related to the business itself and the measures that we are taking today that talks about what he was saying in referring the 148,000 drivers out there that understand that new rules are coming in, but new rules that will add stress. If we are trying to tackle fatigue and we are trying to bring public safety as one, you know, I believe as a mission of the New York City TLC, we cannot use this as a mechanism of surcharging and enforcement, and summonses and tickets, and worries and

**Taxi and Limousine Commission Meeting
January 5, 2017**

193

Proceedings

1
2 concerns. If I get out everyday, if I am a
3 driver, and I think he explained it very
4 simple, I've spoken to many drivers
5 regarding this rule since the summer and
6 the driver said, how am I going to collect
7 all this information, and a lot of people
8 say this has to be a leveled playing field.
9 Unfortunately, we have different segments
10 in the industry. We have the yellows, we
11 have the greens, which are basically ruled
12 by the same principles, but we have the
13 black cars. We're talking about that you
14 know the point A to point B because there
15 is a credit card. At least you know more
16 or less where the trip ended, although you
17 may not have the final information but you
18 already sort of know, but then you talk
19 about our segment. We are right in the
20 middle of limos and black cars in the FHV
21 world. There is the cash element and
22 component. A passenger in our community
23 calls the base and you ask where they're
24 going, they don't tell you where they're
25 going and they --

Taxi and Limousine Commission Meeting
January 5, 2017

194

1 Proceedings

2 THE CHAIR: If they wanted the
3 binding fair quote --

4 MS. ANGELES: They may in some
5 occasions --

6 THE CHAIR: In some cases.

7 MS. ANGELES: -- but that doesn't
8 hold true for every ride, and at the same
9 time, when you arrive in the vehicle, the
10 passenger says -- the driver says, where
11 are we going? Once he says where are we
12 going, it could be two different locations.
13 I could pick up my daughter in the process
14 and then go to Yankee Stadium.

15 Now, like he -- previously it was
16 stated, now I have to write it down and
17 pass the information to who? To the base.
18 The base has a responsibility to tell me
19 when the driver completes the 60 hours per
20 week. Well, I'm sorry, I cannot dispatch
21 you anymore. What am I doing? I am in
22 direction and control of that driver. What
23 does that contradict? The livery fund and
24 the black car fund, because if the black
25 car fund, the rules may be different but

**Taxi and Limousine Commission Meeting
January 5, 2017**

196

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Proceedings

fashion because he has to complete the week, he needs to make, you know, the thousand dollars that he's accustomed to or the \$200 that he knows how to make in that week's time. He's going to do it with my knowledge or without my knowledge.

So, in the interest of time --

COMM. MARINO: But not without your calls. I mean, if you're dispatching, that is with your knowledge.

MS. ANGELES: Then again he is my responsibility as well because he is affiliated with us and then you are creating illegal and promoting illegal street hails because in the end, he's going to do what he needs to do to survive. So we need to stop and take a step back and look into what the segment of the industry, our segment, the cash segment, the implications, the economic implications, and also the relationships that we have built in our communities with the drivers as well. So I think it's time to look at this from the safety perspective and

**Taxi and Limousine Commission Meeting
January 5, 2017**

198

Proceedings

1
2 location and time data will be expensive
3 and have a tremendous operational
4 disruption to our business. We're
5 estimating an increase of about maybe 400
6 to 600 percent of overhead due to the
7 extensive hardware we would have to get,
8 not to mention that our drivers are
9 typically within a three gig data plan
10 currently. This would, due to the amount
11 of information going back and forth, we
12 would probably have to double that.

13 Overall, this is without counting
14 that most of our car services have bought a
15 system maybe a year or two ago and spent
16 100 -- anywhere from 75-to 100,000 and we
17 may have to incur that again. Some of the
18 smaller ones may not be able to.

19 Currently, many of our bases have
20 been fined by TLC if they are even a day
21 late submitting their trip logs, so we
22 believe that information may lead to even
23 more summonses. And we are concerned that
24 since our drivers are not our employees,
25 this will -- making the bases responsible

Taxi and Limousine Commission Meeting
January 5, 2017

199

Proceedings

1
2 for driver's scheduling is very troubling,
3 as they are independent contractors. While
4 the fatigue laws apply to other parts of
5 the FHV industry, more closely due to
6 drivers having to travel to certain
7 locations in the central district to work,
8 it is quite different in our community car
9 service system. Majority of our drivers
10 live and work in the community. They
11 choose to work in bases that are near their
12 homes for ease of travel and to service
13 their community.

14 In personal testimony, a few years
15 back, I'm a member of Community Board CB11
16 in East Harlem, and before I was a member,
17 they came to my office and they said your
18 drivers are taking up a lot of the parking
19 spaces in my area. I took all their
20 driver's license and I went to the
21 community board and I said this is where
22 they live. You know he's parked on 221 16,
23 that's where he lives. And I showed them
24 all their driver licenses of how the
25 majority of my drivers live in this close

Taxi and Limousine Commission Meeting
January 5, 2017

200

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Proceedings

community in East Harlem and that's why they choose to work with me because I am the closest base to them.

Unlike other FHV's, our drivers regularly take breaks and go home to spend time with their family and rest before going back out to work. They're able to do this due to their close proximity to their homes. We are also concerned that this is becoming more about data collection for future uses such as surcharges and other mentions that Councilman Lander said today than for actual driver fatigue.

Our other objection to the proposed rules also revolve around privacy that has been mentioned substantially today. I won't go into all of it but anything can be hacked. I think we've -- we've been -- it's been clear to us from Snowden and the NSA leagues to our presidential election which is being looked into right now. I don't see how we can say here and stand and say that there's no way that this data cannot get out.

**Taxi and Limousine Commission Meeting
January 5, 2017**

201

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Proceedings

We believe that these proposed rules need to be reconsidered and that the public should have more time and information to provide feedback. We also felt that having this rules on today right after the holidays didn't give enough people time because most of our bases are still away for the holidays. They're coming back this week, and we're concerned that if the vote is next month, they don't have enough time to give their feedback.

We respectfully request that our industry and the public of New York City who will be impacted by the law be allowed more time to voice our opinion, and we thank you for considering our input. We look forward to meeting with you.

THE CHAIR: Thank you.

MR. WILSON: Thank you.

The next speaker is Pedro Aguiar.

MR. AGUIAR: (Interpreter) Good afternoon, Madam Joshi, Commissioners of New York in charge of the agency of the Taxi & Limousine Commission of the City of

Taxi and Limousine Commission Meeting
January 5, 2017

202

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Proceedings

New York. My name is Pedro Joaquin Aguiar, President of the Coalition of Taxi Drivers of the New York City, and in the name of all members of this working class, I want to express a new revelation to punish taxi drivers on them hours maximum worked.

Based on the statistics of the behavior of the drivers in which you say that more than the 80 percent of our drivers have an excellent behavior and now the increment of accident by fatigue is insignificant with the numbers of passengers that collect annually more than 400 million.

This regulation under consideration, the driver is not going to make collected no more than 60 hours in the period of seven days. This will bring as consequence a diminution in the income of taxi drivers and by end will more disease to our licenses. And the goal of the State is on display to deregulate our industry.

In our opinion, the TLC is going to make very difficult obtain data from travel. Bases of taxis does not have an

**Taxi and Limousine Commission Meeting
January 5, 2017**

203

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Proceedings

accurate record of time worked in a livery cab driver. Most passengers do not give their exact address when you call bases. Many times when we are busy, passengers emerges to give a direction of long distance so that they can send you a taxi. We are not an employee of the bases and the street hails. And by end, the most of time change of address after that with this regulation increment the number of fines for us by the reasons exposed previously. In cases of the taxi drivers livery are members of the coalition has not the service of credit card. This regulation is only that seek authorities, an increase the numbers of fines and search an increase in the payment of taxes. It speaks in this regulation of protection of the public, but you Lords Commissioners have thought in the protection of which provide or perform the service.

In our opinion, taxi drivers with this resolution so unique that us provides it the following: A, more work; B, more

**Taxi and Limousine Commission Meeting
January 5, 2017**

204

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Proceedings

stress; C, more pain; D, less money; E, more pain of head; F, more conflicts between bases and drivers; and G, more conflicts between passengers and drivers. Therefore, them ask to you that withdraw its support to this implementation of such regulation.

Very attentament [sic], Pedro Joaquin Aguiar, President of the Coalition of the City of New York.

THE CHAIR: Thank you very much.

MR. WILSON: Thank you.

The next speaker is Sami Naim.

MR. NAIM: Good afternoon. Thank you, Chair Joshi and Commissioners. My name is Sami Naim, Public Policy Manager for Lyft. We at Lyft support and welcome the opportunity to comment on the TLC's proposed rule regarding driver fatigue prevention.

First of all, I'd like to acknowledge and let it be known that we appreciate the Commission and the agency, their leadership on this issue of driving

**Taxi and Limousine Commission Meeting
January 5, 2017**

205

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Proceedings

fatigue. We fully support efforts to combat driver fatigue. We agree that imposing a reasonable limitation on the number of hours a driver may transport passengers is an effective way to combat driver fatigue. We also agree that requiring data on trip duration will provide the TLC with relevant information to enforce this limit on hours.

Where we have concerns is when it comes to data for drop-off locations, or whether a trip is shared with passengers, and it's unclear to us how this would help with compliance of the hour limitation. Moreover, we're concerned that this data that's contemplated in this rule would trigger significant risk to personal privacy which has been spoken at length.

I just want to quickly summarize our written comments which were submitted on Monday, January 2nd, the comment date deadline. So just to quickly summarize. One, rules to combat driver fatigue should focus on the number of hours the driver

**Taxi and Limousine Commission Meeting
January 5, 2017**

206

Proceedings

1
2 spends transporting passengers. To
3 ascertain a driver's alertness, we believe
4 that the number of hours a driver is
5 transporting passengers is a better metric
6 than information on where a trip terminates
7 or the number of passengers in a vehicle.
8 In other words, we believe a targeted
9 approach to data would be a more effective
10 way to combat driver fatigue. To that end,
11 we'd be happy to work with the Commission
12 on developing such an approach.

13 Number two. Data requirements carry
14 significant risks concerning personal
15 privacy and industry competitiveness. I
16 want to acknowledge the, and I appreciate
17 all the comments made today about the
18 limitation with FOIL and the intent of the
19 agency. I do not question the intent of
20 the agency with respect to privacy,
21 however, I do note the significant risks
22 which were spoken of when it comes to a
23 wholesale transfer of data regarding
24 millions and millions of trips. To that
25 end, we have a great working relationship

Taxi and Limousine Commission Meeting
January 5, 2017

207

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Proceedings

with TLC and it's staff, and we'd be happy to puzzle through those issues together to find a way to ensure that we are combating driver fatigue in a more efficient, effective and transparent manner possible.

And lastly, I just want to note that, you know, the TLC has wide-ranging enforcement investigatory powers as is. If they need additional information in addition to the number of hours a driver has been transporting passengers, the TLC can ask and obtain that information by law, backed with a summons and fine. We have a compliance team that regularly works with the TLC to provide information in a timely manner and that may be the more effective way to provide and ensure -- I know auditing was mentioned before, and again, we would be happy to work with the agency on finding a most efficient way to audit this information to ensure again, something that everyone in this room agrees, we need to combat driver fatigue and have the specific legal mechanisms in place to do

Taxi and Limousine Commission Meeting
January 5, 2017

208

1 Proceedings

2 so.

3 And so with that, I'd be happy to
4 answer any questions you may have.

5 THE CHAIR: Well, like I said
6 before, we look forward to meeting with you
7 to go over in more detail some of your
8 ideas.

9 MR. NAIM: Thank you very much.

10 MR. WILSON: Thank you.

11 Sandro Mizhquiri.

12 (No response.)

13 MR. WILSON: Is he not here? Okay.

14 Nolberto Rojas.

15 (No response.)

16 MR. WILSON: Okay. Sean McKay.

17 (No response.)

18 MR. WILSON: No.

19 Ibrahim Ibrahim.

20 MR. IBRAHIM: Good afternoon. My

21 name is Ibrahim Ibrahim. I am here in

22 strong support of the 10-hour rule.

23 Safety, as you all know, is paramount to

24 all New Yorkers. In the for-hire business,

25 safety and economics are not mutually

Taxi and Limousine Commission Meeting
January 5, 2017

209

Proceedings

1
2 exclusive. They are strongly coupled. As
3 one of the drivers have earlier mentioned,
4 that when we first started working in the
5 e-service -- e-hail business, drivers
6 worked far less hours and made a decent
7 amount of money to go home. Now, with the
8 wage reduction that was introduced by one
9 company which forced the entire business to
10 lower its prices and more drivers added,
11 that has significantly contributed to
12 longer hours by drivers. I in fact invite
13 you to ask the e-hail companies to provide
14 data showing the average number of hours
15 worked by drivers prior to January, 2016
16 and after January, 2016.

17 And furthermore, nothing about the
18 proposed data collection poses a threat to
19 privacy. If Jane Doe is picked up in Lower
20 Manhattan and dropped off in Long Island
21 City, there is nowhere near enough details
22 to identify who Jane is, and it's
23 interesting that a lot of people have
24 talked about the over-collection of data
25 and what they need it for. One company,

Taxi and Limousine Commission Meeting
January 5, 2017

210

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Proceedings

for instance, every time I launch the app, it tells me -- it pulls up -- it tells me, do you want to go to this restaurant which I frequently visit. So that's interesting because if their data is hacked, then they know that Ibrahim was at this restaurant in Bushwick. So why do they need that information? Thank you.

THE CHAIR: Thank you very much.

MR. WILSON: Thank you very much.

I think we only have one more speaker. Last but not least, Asim Aktar.

MR. AKTAR: Good afternoon, Commissioners. My name is Asim Aktar, and I'm with New York Taxi Workers Alliance. It will go back to the same comment we made in the last hearing when the fatigue rules were proposed. We would love to see how many drivers would actually going to complete 600 passenger transporting minutes. It's really bad out there. I mean, and just that the drivers who testified, I mean, companies are keep cutting their rates. That's the only

**Taxi and Limousine Commission Meeting
January 5, 2017**

211

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Proceedings

reason drivers are forced to work longer hours. If they're not going to make the ends meet in that 12 hours, that will, of course, will push them to drive longer hours.

I mean, again, it's very sad that we're telling the workers that you, you know, you shouldn't be working 10 hours or 12 hours whereas the workers, you know, they don't know that, you know, how many hours they should work.

I know TLC don't want to touch it, we have to come up with a minimum fare for FHV sector where, I mean, I think under New York City TLC Charter, TLC is responsible for driver well-being. You know, so there should be a minimum fare and a set standard across the industry, you know, which will ensure that drivers will at the end of their shift, they will take, you know, a livable income.

Data breach is just, you know, a lot of people have made comments. TLC is collecting the data from the taxi industry

Taxi and Limousine Commission Meeting
January 5, 2017

213

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Proceedings

about how to control like drivers for not
working more hours. Thank you.

THE CHAIR: Thank you very much.

I think that concludes our hearing
and we've made it just under 2:00. It's
1:58. Happy New Year to everybody, and
thank you for those that stayed throughout
the entire hearing.

(Time noted: 1:57 p.m.)

Taxi and Limousine Commission Meeting January 5, 2017

A		
<p>a.m (8) 1:13 2:2 23:7,8,14 50:5,5 183:24</p> <p>ability (6) 29:16 73:20 98:21 99:18 149:19 214:13</p> <p>able (21) 16:3,20 20:22 27:20,23 51:4 59:18 62:16 63:11,11 71:25 91:15 100:17 103:20,21 111:15 134:16 165:18 181:5 198:18 200:8</p> <p>ably (1) 6:11</p> <p>Abramson (3) 4:7 164:7,8</p> <p>absolutely (7) 52:14 71:3 72:11 118:21 144:11 146:3 188:15</p> <p>accept (1) 113:2</p> <p>acceptable (2) 135:8 151:4</p> <p>access (8) 3:17 31:22 44:15 70:6,8 78:5 86:5 173:23</p> <p>accessed (1) 83:15</p> <p>accessibility (2) 31:20 35:6</p> <p>accessible (4) 12:17 13:3 70:19 132:25</p> <p>accessing (1) 78:16</p> <p>accident (4) 38:6 116:9 118:12 202:12</p> <p>accidents (2) 46:9 118:9</p> <p>accommodate (2) 18:7 45:3</p> <p>accompanied (2) 188:5,6</p> <p>account (3) 22:13 38:10 97:8</p> <p>accountable (2) 25:4 36:18</p> <p>accounted (1) 22:10</p> <p>accounting (2) 58:23 181:13</p> <p>accumulated (1) 56:20</p> <p>accuracy (1) 44:18</p> <p>accurate (5) 16:11 25:3 97:18 110:22 203:2</p> <p>accurately (5) 14:21 22:15 68:13 79:9 178:11</p> <p>accustomed (2) 100:16 196:4</p> <p>achieve (7) 67:18 68:13 78:12 118:5 142:4 150:22 162:16</p> <p>achieves (1) 151:20</p> <p>achieving (1) 35:3</p> <p>acknowledge (4) 9:6 61:2 204:23 206:16</p> <p>acknowledged (1) 100:11</p> <p>acknowledging (1) 70:14</p> <p>acknowledgment (1) 145:21</p> <p>acronym (1) 159:21</p> <p>action (4) 39:21 82:16 91:13 214:15</p> <p>actions (5) 36:15 123:21 139:19 155:23 157:7</p> <p>active (3) 28:16 48:14 62:20</p> <p>actively (1) 62:24</p> <p>activity (2) 10:25 42:24</p> <p>actual (7) 24:4 63:13 129:15</p>	<p>183:12 190:24 191:4 200:14</p> <p>acute (2) 19:17,17</p> <p>ad (1) 131:18</p> <p>add (6) 26:3 30:16 162:20,22 192:19 197:22</p> <p>added (4) 134:7 149:19 187:7 209:10</p> <p>adding (6) 72:16 120:21 123:11 162:5 167:10 172:21</p> <p>addition (9) 22:2 25:9 37:5,9 66:11 69:4 74:11 147:24 207:11</p> <p>additional (30) 20:14 21:17 23:23 25:25 68:23 108:18,21 119:18 120:23 121:3,8,12 122:7,15 127:11,20 137:21 149:11 150:8 154:19 155:16 156:17 160:20 162:5 163:6,15 165:11 171:19 173:5 207:10</p> <p>Additionally (1) 50:15</p> <p>address (19) 30:15 32:25 69:17 70:5 79:12 101:19 105:12 109:13 110:13 111:16 130:4,6 133:25 136:7 146:12 155:12 165:9 203:4 203:10</p> <p>addressed (4) 77:22 129:13 191:25 192:11</p> <p>addresses (3) 24:25 78:7 157:12</p> <p>addressing (6) 37:18 47:12,25 106:18 125:23 157:8</p> <p>adequate (1) 19:23</p> <p>adequately (3) 14:22 15:8 96:6</p> <p>adjunct (1) 138:21</p> <p>Administration (2) 3:10 45:19</p> <p>administrative (3) 102:18 141:11 149:14</p> <p>Administrator (1) 45:17</p> <p>admission (1) 161:18</p> <p>Admissions (1) 5:13</p> <p>admitted (1) 123:14</p> <p>adopt (1) 142:7</p> <p>adopted (5) 11:15 12:11 62:10 110:12 141:23</p> <p>adopting (2) 11:11 12:7</p> <p>adoption (2) 11:10 141:18</p> <p>advance (2) 42:17 73:22</p> <p>advanced (2) 29:2 119:16</p> <p>advances (2) 65:21 74:18</p> <p>advantage (5) 17:23 51:10 64:14 84:5,6</p> <p>advantages (1) 51:11</p> <p>advocate (4) 154:3 155:19 156:24 159:5</p> <p>advocates (1) 127:2</p> <p>advocating (1) 95:8</p> <p>affairs (1) 78:8</p> <p>affect (4) 19:16 47:10 164:22 187:8</p> <p>affiliated (1) 196:14</p>	<p>afford (3) 59:19 119:13,15</p> <p>affordable (2) 62:17 64:11</p> <p>afforded (1) 139:2</p> <p>afternoon (15) 117:7 140:12 146:8 153:17,22 159:16 164:8 182:25 183:5,6 197:8 201:23 204:15 208:20 210:14</p> <p>age (2) 46:15 212:10</p> <p>agencies (6) 70:7 83:13 139:12 141:11 144:18 145:9</p> <p>agencies' (1) 141:17</p> <p>agency (19) 5:18 6:2 9:18 16:15 40:4 43:17 77:7 78:23 141:7 143:9 149:11 156:6,15 176:6 201:24 204:24 206:19,20 207:20</p> <p>agency's (1) 44:7</p> <p>agenda (3) 11:9 12:12 14:3</p> <p>agents (1) 49:8</p> <p>aggregate (1) 41:19</p> <p>aggressive (1) 113:23</p> <p>aggressively (1) 31:20</p> <p>ago (8) 16:3 28:10 62:8 126:25 137:25 139:10 189:15 198:15</p> <p>agree (7) 31:4 78:20 112:25 129:25 135:7 205:3,7</p> <p>Agreed (1) 155:17</p> <p>agrees (1) 207:23</p> <p>Aguado (3) 2:6 28:25 116:22</p> <p>Aguiar (5) 4:15 201:21,22 202:2 204:10</p> <p>ahead (4) 89:24 91:20,22 93:4</p> <p>air (2) 102:25 109:8</p> <p>airport (1) 21:25</p> <p>airports (2) 32:7 51:7</p> <p>Aisha (1) 11:19</p> <p>Aktar (5) 4:18 210:13,14,15 212:7</p> <p>Albert (1) 128:7</p> <p>alcohol (3) 46:6 109:18 110:3</p> <p>alert (1) 54:13</p> <p>alertness (1) 206:3</p> <p>algorithm (2) 41:5 83:2</p> <p>algorithms (1) 82:25</p> <p>align (2) 47:14 169:25</p> <p>alike (1) 78:13</p> <p>alive (2) 114:11 118:19</p> <p>all-time (1) 106:4</p> <p>alleged (1) 91:13</p> <p>alleviate (2) 64:15 158:7</p> <p>alleviating (1) 112:24</p> <p>Alliance (2) 4:18 210:16</p> <p>allow (12) 6:24 44:22 49:24 53:18 55:20 96:21 104:7 167:20 169:9 172:8,10 187:11</p> <p>allowable (1) 56:4</p> <p>allowed (5) 54:10 56:13 106:15 132:19 201:15</p> <p>allowing (4) 14:12 20:24 102:21</p>

**Taxi and Limousine Commission Meeting
January 5, 2017**

<p>160:8 allows (4) 39:21 82:9 98:19 149:20 Alsredo (1) 182:20 Altamirano (3) 4:14 192:4 197:8 alter (1) 63:12 altered (1) 116:4 alternatives (4) 3:18 95:6 126:19 170:3 altogether (1) 197:12 amassed (1) 127:6 Amazon (1) 131:17 ambits (1) 155:9 Amen (3) 3:7 38:19,25 amend (1) 85:20 amended (3) 77:17 101:15 113:19 Amendment (2) 70:10 159:8 American (1) 46:23 Americans' (1) 137:19 amount (12) 78:3 80:4 97:6,11 144:8 166:24 172:20 173:13 180:25 181:20 198:10 209:7 amounts (1) 172:8 Ana (2) 3:19 101:6 analyses (2) 36:16 44:11 analysis (5) 20:15 21:17 23:22 25:12 43:12 analyst (3) 16:20 18:21 61:17 analysts (1) 7:11 analytics (5) 3:7 38:21 39:2,4 41:24 analyze (1) 44:3 analyzed (2) 26:19 110:19 and/or (2) 12:3 118:15 Andrei (3) 4:4 146:6,9 Angeles (6) 4:13 191:11 194:4,7 195:18 196:12 angle (1) 62:19 ANGLES (1) 191:13 angry (2) 8:5,6 Anne (1) 39:23 announced (2) 124:9 212:11 announcement (1) 10:5 annually (2) 7:14 202:14 anonymization (3) 16:19 142:25 143:3 anonymize (5) 16:16 111:18,23 112:6,11 anonymized (1) 112:14 answer (5) 27:7 56:18 74:15 133:13 208:4 answers (1) 122:4 anymore (2) 89:20 194:21 anyway (2) 174:15 195:24 apart (1) 63:16 apartment (1) 173:22 API (2) 57:15 60:20 apologize (1) 183:3</p>	<p>app (6) 24:5 50:19 91:5 94:2 164:15 210:2 app-based (2) 38:4,9 applaud (2) 48:2 114:18 Applause (4) 8:15 10:3 11:8 185:20 applicant (1) 13:16 applicants (1) 13:14 application (3) 12:2,4,5 applications (4) 11:16,22,23,24 applies (2) 19:11 73:9 apply (9) 13:6,16 14:15 20:20 23:25 24:3 101:24 114:14 199:4 appreciate (16) 32:24 60:25 71:10 100:11,20 122:5,25 123:7 133:8 140:20 145:21 146:11 164:10 166:24 204:24 206:16 appreciated (2) 126:25 146:18 appreciates (1) 158:14 approach (5) 68:7 169:16 170:4 206:9,12 appropriate (2) 94:7 147:13 appropriately (1) 142:11 approval (1) 11:22 approve (1) 45:9 approved (1) 7:8 approximately (4) 47:7 49:9 116:23,24 apps (3) 111:10 119:5 189:14 April (1) 12:5 area (5) 67:7 79:14 88:14 133:19 199:19 areas (2) 32:6 74:22 argued (1) 141:25 arguing (3) 111:8 131:23 135:10 arguments (2) 171:7 195:20 arm (1) 102:25 arouses (1) 82:13 arrive (2) 14:8 194:9 article (1) 160:19 articles (1) 106:8 articulate (1) 161:11 Artificial (1) 40:24 ascertain (2) 111:15 206:3 Ashwini (3) 3:24 125:15,17 aside (1) 140:24 Asim (3) 4:18 210:13,15 asking (6) 15:25 16:4 24:20 60:8 88:18 90:5 asks (1) 80:9 asleep (1) 46:3 aspect (1) 186:13 aspects (1) 125:25 assault (1) 88:9 assaulted (1) 87:21 assaults (1) 86:8 Assembly (1) 115:14</p>	<p>assess (5) 53:11 57:12 60:9,13 113:3 assessing (1) 21:14 assist (1) 26:14 Assistant (3) 3:22 11:20 114:5 assisting (2) 35:20 61:24 associated (5) 69:23 88:16 122:18 123:10 170:20 association (7) 3:19 4:6 101:7 104:9 159:21 197:13,14 assume (1) 166:8 attempt (1) 161:16 attend (1) 137:12 attentament (1) 204:9 attention (5) 36:16 48:3 105:15 160:20 189:6 attentional (1) 46:4 attitude (1) 85:9 attitudes (1) 47:21 attorney (5) 6:17 8:4 86:6 128:13 144:3 Attorney's (3) 5:23 8:13 9:3 attorneys (4) 7:3,10 8:5,9 attractive (1) 119:6 attune (1) 7:2 audience (1) 9:7 audit (6) 14:21 81:12 126:17 140:2 149:19 207:21 auditing (4) 67:18 68:2 142:14 207:19 audits (1) 21:13 August (1) 40:8 Austin (1) 87:6 authorities (1) 203:16 automated (1) 75:12 automatically (2) 64:3 92:10 automobile (2) 36:19 46:9 available (16) 5:11 13:2 21:3 25:7 25:15,21 26:2,5 33:19 39:8 45:5 62:22 67:9 111:19 112:15 156:12 AVENUE (1) 1:22 average (2) 44:5 209:14 averaging (1) 41:5 Avik (4) 3:12 53:5 62:3 121:9 avoid (3) 34:9 48:12 50:18 avoiding (1) 47:14 awake (2) 46:12 109:24 aware (6) 58:14 136:21 145:14 186:9 188:11 190:20 awhile (2) 113:17 145:16 awkward (1) 167:3 Ayes (3) 11:13 12:9 13:24</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>B (4) 58:8 121:22 193:14 203:25 babies (1) 7:21 baby (2) 7:17 45:24</p>
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**Taxi and Limousine Commission Meeting
January 5, 2017**

back (21) 10:6 15:12 57:6 74:8
81:24 93:23 106:18 114:13
141:22 155:10 165:23 173:22
177:4 184:14 189:19 196:18
198:11 199:15 200:8 201:9
210:17
backdrop (1) 78:14
backed (1) 207:14
background (1) 46:19
bad (4) 133:11 185:14,23 210:22
badge (1) 9:14
balance (5) 14:11 33:11 98:18
142:3 147:13
balanced (1) 141:13
balances (1) 156:14
balancing (2) 78:18 147:11
barely (1) 119:15
Barnard (1) 10:14
barometer (1) 110:22
Barrira (1) 182:18
base (32) 4:13,14 11:16,22 12:4
25:23 33:18 53:20 54:13,24 55:4
56:6 59:5,9 81:3,17 84:3 91:5
92:15,16,18 119:20 145:20
159:23 163:12 179:7 193:23
194:17,18 195:13,19 200:4
base's (1) 84:8
based (10) 12:13 13:9 23:21 24:3
26:6 81:14,18,20 141:19 202:8
bases (59) 3:24 20:21 23:24 25:3,4
26:9,14,20 27:20 31:5 33:15,21
33:22,25 44:13 51:15,25 52:5
54:6 56:2 58:21,23 59:2,4 60:11
63:23 66:13 69:2 80:23 83:23
84:4,5,16 118:11,13,15 119:3,11
119:14,25 122:11 123:18 124:21
125:19 127:3 133:19 179:8 192:3
197:6,15,16 198:19,25 199:11
201:8 202:25 203:4,8 204:4
basic (2) 81:11 128:22
basically (4) 79:22 190:17 193:11
195:22
basing (2) 49:16 152:18
basis (7) 79:6 155:15 160:12 168:4
171:6 188:3 195:2
bat (1) 35:23
Bay (1) 130:3
Bayside (2) 130:3 136:3
bear (1) 164:13
bearing (1) 126:12
Beaver (1) 1:10
becoming (1) 200:11
beg (3) 56:17 69:10 129:24
began (1) 26:15
beginning (5) 15:22 68:17 69:11
70:22 129:14
begins (1) 28:23

behalf (11) 9:18,21 39:22 95:8
104:23 109:5 117:4,21,24 120:18
140:18
behavior (14) 24:2,16 26:24 62:20
63:6,12 64:9 97:2 115:22 185:16
191:20 197:2 202:8,11
behavioral (1) 74:24
Beier (3) 3:11 49:4,5
belief (1) 15:24
believe (34) 33:6 52:15 65:23
67:15 68:5 73:2,17 78:22 83:5
84:10 85:3 120:18 125:4 128:11
141:4 142:9 145:7 146:23 147:18
148:2 150:4 154:21 161:13
162:10,16 163:18 165:19 170:5
192:22 195:18 198:22 201:2
206:3,8
beloved (1) 169:2
bemoan (1) 137:15
benefit (7) 35:3,4 40:2 65:24 82:25
123:22 132:13
benefits (14) 31:9,14,25 35:7 40:6
44:2 51:9 101:19 132:12,22
149:12,20 150:17,23
best (12) 31:6 46:23 66:2 68:7
76:24 83:2 100:14 102:8 110:19
115:2 146:21 214:13
bestowed (1) 51:12
better (16) 8:25 30:15 43:17 44:20
44:22 62:5 69:24 95:9 102:9
104:9 106:11 162:10 170:19
173:9 179:21 206:5
beyond (6) 31:11 40:22 85:8
106:20 139:3 167:22
bicycle (1) 36:23
bicyclists (1) 166:19
big (8) 28:8 60:18 85:18 86:11,13
86:24 138:20 179:10
bigger (7) 60:11 71:24,25 87:20
94:12 162:4 172:17
biggest (1) 103:7
bike (2) 44:10 62:7
bikes (1) 38:2
bill (2) 2:6 115:14
billion (2) 47:8 212:12
binder (1) 6:5
binding (1) 194:3
biological (1) 45:20
bit (6) 46:6 77:21 115:24 119:24
129:3 155:20
black (12) 101:25 102:14 103:13
103:15,19 111:4 133:7,11 193:13
193:20 194:24,24
blank (1) 112:12
block (3) 54:12 55:14 71:8
blocks (4) 17:12 67:12 71:6 134:4
blood (1) 214:15

board (6) 7:17 28:18 96:6 98:11
199:15,21
body (1) 45:22
Borough (4) 1:12 109:6,10 111:25
boroughs (5) 12:17 38:12 44:19
51:6 132:20
boss (1) 10:15
bottom (2) 47:11 90:9
bought (1) 198:14
box (1) 178:5
boxes (1) 175:15
Brad (6) 3:5,16 30:2 85:25 86:3
87:13
brake (1) 75:2
breach (6) 16:10 143:13 144:2
183:14 211:23 212:14
breached (5) 212:3,4,8,12,13
breaches (5) 41:9 74:5 131:10
139:7 143:21
breadcrumb (1) 130:24
break (6) 7:18 50:4,6 116:8,15,16
breaking (1) 163:16
breaks (3) 21:25 103:11 200:6
Brewer (2) 109:7,9
Brewer's (1) 3:21
brief (1) 134:12
briefly (1) 153:22
bring (6) 16:7 34:2 101:21 174:2
192:21 202:18
bringing (5) 6:21 12:16 64:20
143:21 153:24
broad (6) 47:19 68:15 81:13 85:2
149:22 151:17
broader (4) 31:14 77:9 87:16
151:13
broadly (2) 14:16 28:12
broken (1) 6:17
Bronx (5) 5:23 8:3,12 9:3 89:14
brought (2) 86:6 163:5
bucks (1) 173:11
budget (1) 119:7
bugaboo (1) 155:2
build (3) 19:24 101:16 113:6
built (4) 6:20 179:13,25 196:23
bulk (2) 101:18 114:4
burden (6) 60:19 102:18 149:15
162:23 192:5,6
burdens (1) 118:10
burdensome (3) 35:22 120:13
123:19
Bureau (1) 128:14
bus (6) 44:9,20 174:24 175:4,4,7
Bushwick (1) 210:8
business (22) 38:13 79:15 81:25
84:4,8 85:18 92:20 105:4 118:13
119:22 120:2,9 122:23 127:16
133:20 176:4 192:14 197:23

**Taxi and Limousine Commission Meeting
January 5, 2017**

<p>198:4 208:24 209:5,9 businesses (5) 47:11 48:5,9,16 118:20 businessman (1) 176:5 busy (2) 7:19 203:5 bystander (1) 157:17</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>C (3) 204:2 214:2,2 cab (18) 4:8,10 86:14 88:9 96:15 166:10,15 169:13 170:15,23 174:12 175:4,7,10 176:22 177:14 180:5 203:3 cabs (9) 88:7 89:2,4 91:25 101:25 103:11,12 107:14 179:24 cake (1) 155:20 calculate (4) 58:9 126:10 146:21 167:18 calculating (2) 98:6 147:6 calculation (5) 21:22 22:7 24:18 49:16 50:17 calendar (1) 110:17 calendars (1) 156:11 California (1) 186:17 call (14) 8:7 49:3 65:13 66:17 88:10 93:17,19,24,25 101:3 121:18,20 156:3 203:4 called (8) 8:6 10:15 74:9 84:11 117:2 185:25 186:12,22 calling (3) 93:16,23 95:4 calls (3) 52:7 193:23 196:10 campaign (1) 27:2 campaigns (2) 15:23 36:13 cap (3) 167:19 180:22 181:17 capability (3) 33:23 44:7 103:18 capacity (4) 33:16 34:2 102:9 140:18 capping (1) 181:16 capture (1) 22:15 car (30) 19:12 50:9,22 74:23,25 80:17,18 87:23 89:16,16 96:24 99:20,25 102:2,4,14,15,22 103:19 147:5 157:22 174:17 175:12,18 186:9 194:24,25 197:24 198:14 199:8 card (5) 133:4 185:5 189:24 193:15 203:15 care (2) 36:18 184:13 career (1) 10:17 careful (1) 14:11 carefully (1) 170:25 careless (1) 113:25 cares (1) 180:8 Carmel (2) 58:15 60:12 carpooling (1) 41:4 carport (1) 75:8 carry (5) 3:8 42:8,10,12 206:13</p>	<p>cars (11) 5:8 86:15 88:14 101:25 103:13,15 105:4 111:4 177:8 193:13,20 case (13) 6:21 7:11 59:8 78:20,23 80:24 90:2 92:13 94:6 129:18 132:15 154:2 169:3 cases (4) 6:20 59:16 194:6 203:13 cash (2) 193:21 196:20 Cassella (3) 2:22 214:7,22 casual (1) 75:4 catalyst (1) 65:20 catching (1) 162:7 caught (1) 69:10 cause (3) 46:2 95:14 114:16 caused (3) 42:23 45:22 49:22 causes (1) 46:3 caution (1) 136:15 CB11 (1) 199:15 CDL-licensed (1) 186:12 cell (1) 185:11 center (6) 4:5 66:6 127:9 128:9 130:11 153:19 central (2) 38:13 199:7 Century (1) 41:23 CEO (1) 114:3 certain (4) 9:2 56:6 176:13 199:6 certainly (7) 68:9 72:12 73:24 136:11 149:25 158:7 160:19 certificate (1) 9:13 certify (2) 214:9,14 challenge (3) 6:12 8:25 154:7 challenges (1) 152:2 chance (2) 83:4 182:2 change (18) 11:25 20:25 22:6 24:2 47:20 53:12 63:12 69:22 80:25 96:24 98:9 110:19 132:19 163:11 165:21 191:20 197:2 203:10 changed (3) 102:19 117:12 132:21 changes (13) 11:25 12:2,14 13:12 13:19 42:16 48:11 53:17 60:3 109:12 113:9 115:20 197:18 changing (3) 44:23 95:25 96:13 characterization (1) 135:25 charge (3) 32:4 61:6 201:24 Charles (3) 3:6 36:5,10 charter (3) 149:20 156:9 211:16 chased (1) 177:3 chasing (1) 89:17 check (4) 5:12 56:21 65:11 117:15 checks (1) 156:14 Chhabra (19) 3:24 125:15,16,17 127:17 129:6,24 130:25 131:25 133:13 134:18,21 135:3,9,24 136:11 137:3 138:16 185:2 Chicago (1) 186:18 Chief (2) 8:11 39:2 Chin (1) 30:10</p>	<p>choice (2) 183:25 186:3 choke (1) 44:5 choose (5) 63:23 168:23 186:2 199:11 200:3 chooses (1) 169:21 Chorus (3) 11:13 12:9 13:24 Chris (4) 2:13 12:14 17:17 108:6 chronic (2) 19:17,24 Cira (2) 4:13 191:11 cited (1) 106:8 cities (1) 85:13 citing (1) 128:4 citizen (1) 36:11 citizen's (1) 137:16 citizens (1) 70:9 city (67) 1:3 3:8 5:5 9:19,20,22 12:19 18:11 25:12 30:24 31:23 36:14,21 38:11 39:10,17 40:22 41:12 42:8,14 45:4 47:21 48:2 61:24 62:24 65:6 70:4 84:23 85:16 89:5,11 101:22 104:18 105:13,23,24 106:10,14 113:20 114:23,25 118:19 133:21 137:9 138:9,11,17 143:23 146:15,15 152:19 156:16 159:23 170:7 174:11 176:21 186:17,19,25 192:23 197:16 201:14,25 202:4 204:11 209:21 211:16 City's (23) 19:13 29:13 31:3 38:25 39:14,17 41:2 42:18 44:25 85:8,9 95:8,15 101:16 102:11 111:19 118:18,24 125:21 160:5 162:11 166:13,16 civic (2) 40:22 41:24 claim (1) 154:15 clarification (2) 69:12,13 clarify (7) 13:13,15 16:7 28:17 63:20 70:21 135:10 class (1) 202:5 CLE- (1) 7:7 clear (11) 15:22 16:4,6 52:18 70:5 94:3 135:18 138:12,18 156:25 200:20 clearly (5) 10:24 50:12,25 158:5 185:3 click (1) 178:2 client (2) 89:12 93:11 clients (1) 140:20 climate (1) 85:18 clinic (2) 140:15,19 clock (5) 20:23 22:24 54:22 175:19 177:9 close (5) 38:10 95:14 151:3 199:25 200:9 closed (1) 118:15 closely (2) 162:15 199:5 closer (2) 157:24 167:21</p>
---	--	--

**Taxi and Limousine Commission Meeting
January 5, 2017**

closest (1) 200:4
closing (1) 163:3
closures (1) 126:14
coalition (6) 4:15 76:19 84:19
 202:3 203:14 204:10
Coast (1) 10:20
codified (1) 56:16
cognitive (1) 43:2
Cohen (5) 5:21 7:23 9:9,20 48:24
collaboratively (1) 33:20
colleagues (2) 35:17 170:2
collect (24) 26:9 66:22 67:4,24
 71:4 75:8,13,16 127:11 129:17
 131:3 135:20 137:20 143:24
 144:9,9,16,19 154:11,15,19
 171:11 193:6 202:13
collected (11) 67:14 70:11 75:6
 111:12 127:14 130:18 135:16
 143:9 155:6 161:9 202:16
collecting (9) 33:3 67:16 69:25
 129:10,23 139:10 145:15 171:7
 211:25
collection (27) 26:12 28:5,21
 31:14 66:19 68:25 73:19 74:10
 101:23 108:8 111:7 127:19,24
 128:23 132:6 137:6 138:19
 145:10 160:24 161:16 162:4
 163:9 171:2,10,18 200:11 209:18
column (1) 112:12
columns (2) 25:22 26:3
combat (7) 19:7 118:7 205:3,6,24
 206:10 207:24
combating (1) 207:4
combined (3) 103:22 104:17
 160:15
come (22) 5:13,20 11:6 28:11
 34:22 46:14 88:11 113:2 122:6
 124:18,25 137:19 153:20 165:23
 178:16 181:25 183:13 184:6,7,14
 190:18 211:14
comes (8) 6:13 10:10 54:5 63:17
 85:2 176:23 205:12 206:22
comfortable (1) 99:14
coming (4) 163:13,16 192:18
 201:9
COMM (62) 27:9,17 28:25 35:15
 55:11,13 58:16 61:18 67:3 79:18
 79:21 80:6,14 81:2 89:22,25 90:4
 90:11 91:19,22 92:4,9 93:2,5,13
 94:19,22 105:16,19 107:8 119:23
 120:4,8 121:5,14 125:6,9,12
 129:5,7 131:12 134:19,22 135:5
 136:9,23 138:14 151:3,8 152:20
 158:19 159:8 172:10 183:21
 184:3,6,9 187:4 190:12,16,25
 196:9
commend (1) 165:20

comment (14) 12:20 13:10 15:10
 18:12 94:5 108:7,19 122:25
 153:3 159:25 190:13 204:19
 205:22 210:17
comments (29) 12:21 15:9 17:25
 18:14 48:19 49:12,14 52:23,24
 61:2 65:8 66:4 76:10 77:4 87:11
 94:9,14,19 98:13 101:19 108:21
 128:7 137:14 154:6 190:18
 191:23 205:21 206:17 211:24
commercial (1) 186:22
Commission (46) 1:4,11 5:5 9:21
 11:12 19:2 20:11 37:12 40:3
 42:12 45:9 48:3 50:23 51:12,13
 51:20 52:16,16 53:2 62:2,11 65:5
 69:21 95:4 106:2 110:8,18,25
 113:10 123:14,17 127:3 128:18
 132:5 133:10 138:7 139:4,9
 156:15 159:24 164:11 169:21
 170:8 201:25 204:24 206:11
Commission's (3) 30:14 63:9
 125:23
Commissioner (18) 3:22 11:20
 38:24 39:23 42:11 58:13 59:7
 91:17 95:2 100:22 109:11 114:5
 116:22,24 188:23 189:22 191:15
 192:6
Commissioner's (1) 18:22
Commissioners (30) 2:3 11:19
 12:25 13:21 18:15,20 30:6 36:8
 52:24 53:2 59:13,21 61:15 76:17
 104:15 105:14,22 109:4 116:14
 125:17 146:9 148:20 172:3 183:5
 191:16 197:9 201:23 203:20
 204:16 210:15
commitment (2) 9:23 125:23
commitments (1) 17:20
committed (2) 8:21 39:24
Committee (3) 3:11 49:6 165:20
common (2) 110:12 212:20
commonalities (1) 82:10
commonly (1) 39:15
commonplace (1) 139:8
Commonwealth (1) 159:18
communication (1) 162:12
communications (1) 156:11
communities (1) 196:23
community (15) 41:8 72:25 75:22
 84:24 85:7,11 101:10 193:22
 197:24 199:8,10,13,15,21 200:2
commutes (1) 47:16
companies (33) 34:20 37:3,8 51:2
 76:20 77:5 78:13 82:6,10 84:19
 84:23 85:19 102:19 103:16,17,22
 103:24 111:6 144:20,25 145:17
 145:22 147:9 152:18 154:15
 155:7 156:20 174:14 180:5,16,21

209:13 210:24
company (6) 61:21 63:2 76:25
 106:16 209:9,25
comparability (1) 34:24
comparable (6) 20:3,5 24:9 32:17
 32:19 44:16
compare (1) 179:4
compelled (1) 170:9
competition (4) 84:11 105:8 116:5
 173:4
competitive (2) 51:10,11
competitiveness (1) 206:15
competitors (1) 82:23
competitors' (1) 82:24
complacent (1) 115:18
complained (1) 5:8
complaining (1) 158:12
Complaint (1) 6:16
complaints (4) 6:4 32:8 157:9,17
complete (5) 64:24 86:22 143:3
 196:2 210:21
completed (1) 10:17
completely (6) 9:16 16:20 54:4
 100:4 189:4 190:7
completes (1) 194:19
completion (1) 79:25
complex (2) 42:24 63:16
compliance (6) 79:11 123:11
 141:7 188:2 205:15 207:15
complicated (4) 54:15 55:10 57:7
 150:24
comply (8) 14:23 33:16,24 53:10
 59:16 63:23,24 188:2
complying (1) 162:25
component (4) 63:5 77:15 129:2
 193:22
comprehensive (4) 69:7,15 71:8
 148:25
comprised (3) 7:10 49:8 159:22
compromise (3) 33:13 82:3 116:2
compromised (1) 104:2
computer (2) 40:23 41:4
computers (1) 28:2
concentrates (1) 189:12
concern (26) 27:19 73:7,9 79:14
 83:9,23 86:22 108:15 130:13
 131:20 134:22 135:2,12 143:11
 143:22 144:14 145:4,8 148:15
 157:5 162:11 163:5,6 187:18
 191:25 192:2
concerned (12) 33:5 84:21 86:23
 119:25 137:20 147:15 154:4
 167:7 198:23 200:10 201:10
 205:16
concerning (2) 49:13 206:14
concerns (47) 10:24 21:16 35:2,9
 53:3 70:10 77:14 79:16 82:2,13

**Taxi and Limousine Commission Meeting
January 5, 2017**

<p>84:25 85:9 96:4 103:25 111:9 127:22 135:4 137:5,8 139:3 141:2,12,15 142:5,14,15,17 144:17 145:3 153:9 154:18 158:7 160:5 161:2,7,21 162:18,20,21 163:14,15,18 164:16 165:13 171:16 193:2 205:11 conclude (1) 104:6 concluded (1) 110:21 concludes (1) 213:5 conclusion (1) 85:20 condense (1) 21:2 conditions (5) 44:4 105:12 126:14 170:13,20 conduct (2) 44:11 195:9 confident (1) 29:16 confidential (1) 92:22 confidentiality (3) 33:2,6 34:23 confined (1) 148:11 confirmed (1) 43:11 conflicts (2) 204:3,5 confused (2) 56:2 183:7 congestion (3) 44:5,21 102:10 Congratulations (1) 10:2 congress (1) 185:17 congressman (1) 185:15 connect (1) 74:12 connection (3) 61:23 70:20 76:21 consecutive (1) 20:23 consecutively (1) 21:8 consequence (1) 202:18 consequences (1) 46:11 consider (11) 40:5 75:20 106:5 134:7 138:21 139:4,18 167:23 169:14 190:11 197:21 consideration (5) 35:19,25 187:5 187:10 202:15 considerations (1) 147:12 considered (3) 75:21 126:2 190:15 considering (3) 35:12 169:8 201:17 consistent (3) 146:19 149:13 170:6 Constance (1) 2:8 constant (1) 42:25 constantly (1) 41:25 Constitution (1) 66:8 constraining (1) 105:2 constraints (1) 48:9 constructive (1) 146:20 consultant (1) 176:18 consulted (1) 41:17 consumer (4) 6:3,15,19 171:3 consumers (10) 48:17 66:3 68:12 128:21,24 129:8,12,16,19,22 contact (1) 90:25 contacted (1) 95:16</p>	<p>contain (2) 24:22 143:6 contains (1) 33:11 contemplated (2) 145:11 205:17 contemplating (1) 134:8 contexts (1) 145:13 continue (9) 45:3 55:13 56:8,13 97:17 113:10 152:24 158:17 161:11 continued (4) 4:2 42:5 68:17 171:20 continues (1) 162:4 continuing (1) 11:5 contractor (5) 176:3 184:13,25 187:16 195:14 contractors (6) 14:13 98:20 173:17 184:20,22 199:3 contradict (1) 194:23 contradiction (1) 195:4 contrary (1) 50:13 contributed (2) 95:12 209:11 contributes (1) 37:22 contribution (1) 112:23 contributor (1) 43:9 control (5) 65:25 108:4 115:4 194:22 213:2 convene (1) 116:17 CONVENED (1) 2:2 convenient (1) 102:24 conversation (1) 158:17 conversations (3) 11:5 152:24 167:13 convey (1) 15:8 convoluted (2) 63:15 65:2 coordinated (1) 26:14 coordination (1) 57:25 copies (1) 128:10 copy (2) 94:22 128:12 core (1) 42:17 corner (3) 102:24 134:3 177:16 corporation (3) 156:8,16 212:16 corporations (2) 133:2 212:15 correct (10) 6:14 27:15,16 64:5 79:23 80:15 92:2 129:20 173:6 190:16 correctly (1) 27:10 corresponding (1) 160:17 corridor (1) 44:11 cost (20) 47:7 54:2,2 55:7 59:15 60:22 61:5 119:20 120:10,15 121:25 122:11,13,15,17,18,20,20 122:22 197:23 costly (6) 46:21 47:10 119:11 120:12,13 123:19 costs (3) 61:3,4 123:10 cough (1) 109:7 Council (11) 3:5 30:2,9 31:19 34:18 35:11 87:12 106:14 143:23</p>	<p>149:10 170:7 Councilman (2) 35:16 200:13 Counsel (4) 2:13 49:6 65:18 117:22 count (6) 21:6,7,20 53:24 55:18,19 countdown (2) 175:19 177:9 counted (5) 21:11 23:9 50:22 51:8 53:20 counter (1) 114:15 counties (1) 101:13 counting (7) 22:11 23:3 54:5 55:8 57:11 96:4 198:13 countless (1) 165:17 country (2) 138:3 186:14 counts (1) 23:16 COUNTY (1) 214:5 couple (5) 34:7 99:4 121:17 134:3 141:3 coupled (1) 209:2 course (8) 19:19 30:20 50:8 79:20 134:14 158:16 163:11 211:5 courses (1) 7:8 court (1) 54:21 cousin (1) 187:2 cover (2) 62:19 152:25 coverage (2) 44:18 161:5 covered (2) 19:5 106:20 covers (1) 67:11 craft (1) 167:2 crash (4) 19:20 43:13 95:23 116:9 crashes (13) 37:22 42:20,23 43:9 46:9,24,25 47:2,5,7 114:18 115:11 160:17 crashing (1) 46:18 create (3) 57:15 101:22 115:14 created (2) 75:24 116:3 creates (3) 50:24 72:15 127:16 creating (2) 98:3 196:15 creation (2) 95:12 97:22 credible (1) 81:6 credit (5) 7:23,25 133:4 193:15 203:15 creep (2) 156:4,13 creeping (1) 115:24 creepy (1) 137:8 critical (5) 31:2,12,17 32:25 33:4 criticism (1) 156:19 crosschecks (1) 80:19 crosswalk (1) 19:22 crowd (1) 30:5 crucial (4) 25:10 66:15 78:9 114:9 cruising (6) 21:24 22:10,13 97:13 98:15 147:10 crying (1) 45:24 CT (2) 154:14 158:13 culminated (1) 63:7 current (15) 10:15 24:12 53:12,19</p>
---	--	--

**Taxi and Limousine Commission Meeting
January 5, 2017**

59:13 60:9,15,16 119:9 132:5
147:14 148:7 160:24 161:3
164:25
currently (8) 17:4 28:5 44:12 98:24
158:9 197:16 198:10,19
curtail (1) 138:6
customer (2) 85:15 176:22
customers (3) 83:2 111:11 139:25
customers' (1) 82:11
cut (5) 40:13 56:11 84:7 124:5
195:17
cutoff (1) 53:23
cutting (1) 210:25
cutting-edge (1) 41:24
cybersecurity (2) 29:14 152:2
cyclists (2) 43:23 95:9

D

D (1) 204:2
D-O-U-C-O-U-R-E (1) 183:2
D.C (1) 144:25
dad (1) 113:22
daily (12) 20:17,25 22:8 23:10,17
27:4 31:8 51:25 56:19 96:19
161:24 162:9
dais (1) 124:7
danger (4) 109:20 110:7 167:11
195:25
dangerous (2) 96:23 113:21
dangerously (1) 161:22
dangers (3) 14:17 48:19 188:11
data-sharing (1) 77:15
database (3) 36:16 75:16,25
Datatrack (1) 61:20
Datatrack247 (3) 3:13 61:17,19
date (11) 13:21 17:9,14 22:17
25:24 26:4 37:4 69:3 114:13
127:11 205:22
dating (1) 141:22
daughter (2) 90:16 194:13
David (2) 3:11 49:4
day (24) 14:5 19:19 21:5 23:6,19
30:21 49:25 50:2,12 52:19 53:24
92:24 97:9 99:8,20 105:4 115:6
167:22 175:2 185:15 191:5
198:20 212:10 214:19
day-to-day (1) 75:19
days (12) 16:3 52:19 99:8,10
104:24 174:25,25 176:5,13,14,16
202:18
de-anonymize (1) 16:21
de-anonymized (2) 17:2 70:18
de-identification (2) 72:24 73:17
de-identified (1) 71:15
de-identify (2) 71:19,21
deadline (3) 12:20 18:12 205:23
deal (4) 124:20 133:2 158:11 192:3

dealing (3) 47:18 145:23 185:25
deals (1) 108:7
dear (1) 75:12
death (3) 43:10 97:2 197:17
deaths (1) 42:19
debate (3) 39:5 141:14 142:20
debating (1) 127:24
debt (1) 19:24
decades (1) 36:12
December (5) 11:12 12:21,23
13:20 18:12
decent (4) 165:15 173:9 177:24
209:6
decide (1) 174:15
deciding (1) 41:19
decision (4) 46:4 133:11 138:23
148:21
decision-making (1) 38:7
decisions (1) 8:23
decorated (1) 10:19
decrease (1) 180:25
dedication (1) 9:23
deeply (1) 147:15
defend (2) 137:18 160:8
defense (2) 56:14,15
defining (2) 68:7 154:13
definitely (5) 76:5,6 158:14 175:24
195:10
degrade (1) 43:5
delayed (3) 20:14 51:14 110:18
delaying (1) 52:3
Delete (1) 54:20
deliberate (1) 154:11
deliver (1) 109:5
delivery (1) 114:9
demand (1) 41:2
demands (1) 139:11
demeanor (1) 10:21
Democracy (4) 4:5 66:6 127:9
153:19
demonstrate (1) 34:10
demonstrated (1) 71:15
denial (1) 12:4
dense (5) 17:12 71:7 102:11
133:18 169:6
Department (6) 3:8 10:18 39:12
42:8,14 106:12
departments (1) 70:4
depending (2) 33:17 67:21
depiction (1) 16:12
depth (1) 106:9
deregulate (1) 202:22
describe (2) 53:16 69:12
descript (3) 62:18 64:9,24
designation (1) 25:10
designed (2) 109:12 114:15
designing (1) 141:19

desirable (1) 104:10
desired (1) 82:11
destination (3) 111:15 126:20
140:5
destinations (1) 44:14
destroy (1) 118:20
destroying (1) 137:16
detail (9) 15:19 66:24 73:15 76:10
94:9 107:19 130:22 133:3 208:7
detailed (3) 144:9 147:24 148:7
details (4) 86:17 134:16 162:5
209:21
deter (1) 24:16
determination (2) 11:17 79:2
determine (5) 41:18 57:8 80:4
82:10 124:2
determining (1) 53:22
detrimental (1) 27:22
develop (1) 76:24
developing (4) 7:5,7 97:17 206:12
development (2) 101:11 103:7
dial (1) 93:19
dialog (1) 171:20
dialogue (2) 68:6 73:25
Diana (3) 10:6,8 11:3
died (1) 47:4
differ (3) 56:17 69:10 129:24
difference (5) 60:16 134:23 135:2
167:24 195:11
different (20) 17:14 21:9 54:4 55:2
77:9 83:14 131:9,13,19,22,25
133:9 139:13 144:15 148:20
188:24 193:9 194:12,25 199:8
difficult (5) 19:25 47:12 67:17
160:6 202:24
difficulties (1) 165:8
digital (1) 41:23
diminishing (1) 78:21
diminution (1) 202:19
dipped (1) 9:14
direct (4) 36:15 47:10 190:8 195:4
direction (2) 194:22 203:6
directly (4) 15:16 25:18 91:11
128:5
Director (6) 10:11 39:3 42:13
76:18 101:7 128:8
disability (1) 32:2
disagree (2) 135:25 165:20
disarray (1) 37:24
disclosed (1) 128:24
disclosure (1) 83:7
discount (1) 100:7
discourage (1) 152:17
discuss (7) 53:3 56:24 86:9 140:25
142:2 151:2 176:10
discussed (2) 109:15 140:23
discussing (2) 18:23 156:5

**Taxi and Limousine Commission Meeting
January 5, 2017**

discussion (11) 70:14 141:14
142:24 150:11,14 151:12,19
153:12 157:8 158:20 195:17
discussions (2) 153:12 195:19
disease (1) 202:20
dislikes (1) 133:5
dismiss (2) 132:2 159:2
disorder (1) 37:24
dispatch (15) 52:6 54:6,8,13 55:15
55:17,21 56:8 57:13 58:4,7,21
119:5 122:21 194:20
dispatches (1) 58:25
dispatching (5) 25:23 54:9 56:3
58:3 196:10
display (1) 202:22
disruption (1) 198:4
distance (1) 203:7
distant (1) 22:4
distinction (1) 195:15
distracted (2) 46:6 109:24
district (7) 5:23 8:4,12 9:3 38:13
184:23 199:7
diver (1) 167:9
diversity (1) 21:8
division (4) 6:16,19,21 11:21
Divisions (1) 6:4
doctor's (1) 130:9
documentation (1) 13:14
Doe (2) 90:12 209:19
doing (15) 6:25 60:14 100:13
121:2 132:16 142:17 149:15
165:8 174:15 179:21 180:16
186:8 191:21 194:21 195:21
DoITT (1) 39:23
dollars (4) 103:6 115:7 121:17
196:4
domestic (1) 152:12
DOT (7) 20:9 42:20 44:2,14,19,22
45:8
DOT's (1) 42:17
dots (1) 74:13
double (1) 198:12
doubt (3) 6:8 74:7,13
Doucoure (4) 4:12 182:24 183:2
192:11
download (1) 140:4
downturn (1) 197:5
dozens (2) 17:11 71:6
Dr (1) 38:25
drafted (1) 158:9
drawn (1) 36:16
drinking (1) 20:4
drive (31) 14:7 20:2 40:17 41:7
49:10,25 50:4,7 51:4 74:25
110:10 119:21 123:15 161:19
167:21 168:17,23 172:8 174:24
180:23 181:3,6,7,19 183:20,24

184:7 186:14,19 187:2 211:5
driven (6) 32:4 57:9,12 58:9 99:17
172:13
driver's (10) 16:14 23:5 58:24 79:3
79:9 109:22 120:25 199:2,20
206:3
drivers' (2) 79:11 169:23
drives (3) 40:12 175:4 178:23
driving-related (1) 47:4
drop (1) 121:21
drop-off (51) 14:24 17:13,15 22:16
24:19 25:2,9 26:4,8 28:7 37:3,10
37:16 67:7,19 69:5 71:4 72:16,19
74:11 77:18 78:24 79:5,8 80:2,9
80:12 81:8 85:6,22 110:24 111:3
126:5,6,9,11 127:12,20,25 135:6
139:23 142:12 147:19 150:21
151:4,6 157:11,23 173:18 197:25
205:12
drop-offs (3) 32:5 70:3 135:16
dropped (3) 111:14 133:25 209:20
drops (3) 23:7,14 176:22
Dror (7) 3:13 61:13,14,16,19 64:5
64:21
drove (1) 55:20
drowsy (10) 46:24 47:2,4,6,15,18
47:21 115:10,12,15
dry (3) 9:16 109:8 195:17
drying (1) 9:15
due (13) 9:24 12:5 22:3 36:18 59:6
98:4 125:3 165:3 197:17 198:6
198:10 199:5 200:9
duration (17) 31:6 49:17 66:20
67:20 69:25 79:2,4,7 81:19 85:5
110:21 126:10,17,18 140:2
142:11 205:8
duty (1) 81:11

E

E (3) 204:2 214:2,2
e-hail (8) 50:19 51:3,5,6,9 102:5
209:5,13
e-hails (2) 102:3,20
e-mail (2) 1:24 135:19
e-mails (3) 87:10 135:13 137:5
e-service (1) 209:5
earlier (6) 70:14 74:15 99:7 151:15
160:14 209:3
early (1) 46:13
earn (2) 98:22 165:14
earning (1) 98:24
ease (2) 173:3 199:12
easier (7) 23:24 24:6 52:20 55:9
74:12 79:10 102:23
easily (2) 43:19 70:18
East (4) 89:14 138:2 199:16 200:2
Eastern (1) 184:23

easy (2) 24:2 53:23
eat (2) 155:20 187:3
economic (4) 170:10 192:6 196:21
197:5
economics (1) 208:25
economy (1) 115:18
ecosystem (1) 84:20
educate (2) 63:12 124:22
education (5) 24:14 27:2 34:12
46:16 187:25
effect (5) 34:8 114:16 115:9 118:24
188:18
effective (11) 47:24 52:18,20 96:11
142:16 163:13,17 205:6 206:9
207:6,17
effectively (2) 47:18 147:7
effectiveness (2) 53:11 161:15
effects (4) 45:21 46:21 160:10,15
efficiency (2) 22:21 40:17
efficient (6) 6:13 39:11 45:6 147:2
207:5,21
efficiently (2) 8:22 123:23
Effie (3) 3:13 61:13,16
effort (3) 26:14 31:3 162:7
efforts (6) 31:17 42:22 97:25
100:21 154:19 205:2
Eight (1) 115:11
eight-and-a-half (1) 38:15
either (3) 98:14 105:4 136:4
election (1) 200:22
electronic (2) 64:9 66:7
element (1) 193:21
elephant (4) 86:11,13,25 177:15
elicited (1) 41:11
eliminate (1) 42:19
elite (1) 145:18
eluded (2) 83:11 171:5
embodies (1) 8:20
embracing (1) 154:21
emergency (2) 10:12 106:6
emerges (1) 203:6
emerging (1) 65:22
Emissions (2) 3:22 114:6
emphasis (1) 47:16
emphasize (1) 84:17
employee (3) 152:7 195:14 203:8
employees (1) 198:24
employment (2) 45:2 46:16
empower (1) 41:25
empowerment (1) 66:3
empty (1) 147:5
enable (2) 35:5 43:17
enabling (1) 44:19
enact (2) 65:3 66:24
enacted (1) 62:10
Encalada (1) 182:21
encompass (3) 17:11,14 145:24

**Taxi and Limousine Commission Meeting
January 5, 2017**

encompasses (1) 145:25
encompassing (1) 71:6
encourage (7) 11:2 15:7 33:21
 48:5 50:16 91:8 152:24
encouraged (2) 33:14 34:4
encrypted (1) 29:11
endangers (2) 19:8 37:25
ended (2) 5:15 193:16
endorse (1) 171:18
ends (8) 115:23 126:15 130:8,9,10
 170:14 172:9 211:4
energy (1) 101:10
enforce (8) 14:22 15:6 31:8 37:17
 43:19 52:18 146:22 205:10
enforced (2) 175:2 181:10
enforcement (24) 6:18 7:7 10:9,22
 11:6 21:12 25:12 26:23 28:23
 29:20 32:5 35:8 51:14 70:7,8
 149:13,14,16 155:23 157:7 163:6
 171:3 192:24 207:9
enforcing (4) 37:13 96:3 147:22
 171:12
engage (2) 68:6 73:25
engagement (1) 146:19
engaging (2) 62:4 63:13
engine (1) 136:7
engineered (1) 71:16
enhanced (2) 44:6 101:20
enlighten (1) 197:5
enormous (1) 132:22
Enrique (1) 182:16
enrollment (1) 130:11
ensure (9) 25:2 31:21 48:9 100:19
 123:11 207:4,18,22 211:20
ensuring (3) 76:23 114:23 146:23
enter (1) 121:18
entire (7) 9:18 26:12 91:18 122:9
 183:23 209:9 213:9
entirely (2) 34:17 95:22
entirety (1) 128:6
entities (5) 62:2 78:4 152:11
 154:10 189:5
entity (2) 91:2 156:16
entrants (1) 119:2
Entrepreneurship (1) 140:15
Entrusting (1) 82:12
entry (1) 6:25
environment (4) 7:4 48:16 101:10
 169:6
environmental (1) 166:13
equal (3) 3:16 86:4 109:25
equally (1) 101:24
equipment (1) 61:5
equipped (1) 103:2
equips (1) 39:19
equitable (2) 31:21 39:11
Erica (1) 189:18

error (1) 36:22
escalating (1) 161:4
especially (18) 7:3 30:20 32:9
 33:18 46:12 47:20 81:13 82:5,14
 105:7 106:5 118:21 149:4 157:16
 171:16 173:20 176:11 192:2
essential (2) 33:12 102:8
Essentially (1) 72:23
establish (1) 31:8
established (3) 70:5 82:21 132:17
estimate (2) 46:23 47:3
estimated (2) 57:17 103:13
estimating (1) 198:5
ethic (1) 8:20
ethnicity (1) 46:15
event (1) 158:10
eventual (1) 63:2
eventually (1) 97:19
ever-tightening (1) 118:16
everybody (14) 9:10 106:22
 177:13 180:3,3,4,18 182:2,6
 183:6,13 191:25 212:9 213:7
everyday (3) 86:16 176:7 193:2
everyone's (1) 158:24
evidence (3) 118:22 125:3 128:20
evidence-based (1) 166:21
evident (1) 7:16
exact (5) 41:21 72:18 121:13
 130:23 203:4
exactly (9) 17:5 76:7 86:15 112:18
 120:9,25 124:15 156:25 185:5
example (5) 40:7,15 41:6 50:2
 132:14
examples (1) 72:7
exceed (5) 26:20 34:6 35:8 51:25
 162:8
excellent (2) 178:3 202:11
exception (3) 56:9,16 81:15
exceptions (1) 52:19
excessive (10) 24:10 31:2 102:17
 110:10 123:16 160:9 161:20
 165:4 170:10 172:8
excessively (1) 188:10
exclusive (1) 209:2
excuse (3) 52:2 84:5 180:19
Executive (2) 10:10 159:17
executive's (1) 174:17
exemption (2) 38:4,14
exercise (1) 36:18
exhausted (2) 168:18,25
exist (5) 59:10 85:12 132:20
 143:19 197:17
existence (3) 72:14 73:10,11
existing (7) 58:14 64:15 68:25
 72:20 120:20 124:2 148:17
exists (1) 89:7
expand (2) 19:6 44:18

expanded (1) 163:9
expanding (4) 134:8 160:24
 161:15 163:18
expansion (1) 163:2
expect (1) 113:2
expected (1) 56:11
expense (1) 121:13
expenses (2) 27:21 122:23
expensive (2) 120:21 198:2
experience (5) 10:21 61:23 62:15
 91:9,10
experienced (2) 34:18 43:7
experiences (2) 46:17 84:3
experts (3) 41:17 73:16 128:3
explain (2) 8:6 93:9
explained (2) 6:3 193:3
explanations (1) 156:25
exploitable (1) 185:2
explore (2) 126:19 195:10
explosive (1) 160:15
exposed (1) 203:12
express (3) 30:13 134:17 202:6
expressed (2) 161:21 162:18
expressing (1) 161:6
extend (1) 38:14
extending (1) 99:19
extensive (4) 14:8 26:25 119:19
 198:7
extent (1) 31:7
extra (4) 105:3,7 115:7 172:18
extraordinary (1) 43:4
extreme (3) 99:10,11 100:9
extremely (3) 7:21 17:12 157:19
eye (1) 153:25

F

F (3) 178:20 204:3 214:2
F1 (1) 175:16
F2 (1) 175:16
F3 (1) 175:16
Facebook (1) 131:18
faced (1) 124:20
facilitate (1) 31:16
FACSIMILE (1) 1:23
fact (13) 5:25 7:2 34:4 79:5 82:22
 98:5,6 100:4 108:12 126:13
 137:15 154:17 209:12
factor (2) 55:10 62:25
factors (1) 126:15
facts (1) 128:22
faculties (1) 96:16
fair (3) 141:20 156:18 194:3
fairness (2) 9:24 32:21
fall (1) 46:2
fallacy (1) 86:23
falsify (2) 81:18,20
falsifying (2) 80:23 81:23

**Taxi and Limousine Commission Meeting
January 5, 2017**

families (2) 47:11 165:12
family (7) 7:20 9:7 78:8 95:17
146:16 183:25 200:7
fantastic (1) 159:11
far (13) 31:10 35:8 86:23 88:17,19
88:20 90:17 120:11 139:8 158:2
167:22 209:6 212:2
fare (5) 49:17 97:10 115:25 211:14
211:18
fares (2) 24:5 97:13
farewell (1) 5:17
fashion (2) 192:12 196:2
Fast (1) 127:23
fatal (2) 46:25 47:6
fatalities (1) 30:23
father's (1) 113:25
fatigue (87) 3:2,4 19:16,17,17,18
19:18,25 27:3 30:18 31:11,16
35:4 37:19 43:5,9 45:20,22 46:2
46:8,21 47:22 48:8,13 49:22
52:12,12 56:6 62:20 63:5,15 64:8
68:2 77:3,12 78:21,25 79:10
104:19 118:7 123:24 124:3
125:24 126:3,12 129:4 138:22
139:20,22 149:6,9,18 150:5,14
151:10 155:13 157:6 160:2,11
161:17 163:14 164:12,19 165:10
166:22 167:7 171:13,14 172:6
180:22 190:9,10 192:13,20 195:7
199:4 200:14 202:12 204:20
205:2,3,7,24 206:10 207:5,24
210:18
fatigue-inducing (1) 49:20
fatigue-related (2) 37:21 48:11
fatigued (40) 14:19 18:24 19:7,8
19:11 20:3,12 24:10 30:15 42:23
43:20 46:14,19 48:4,20 49:13
60:5,7,14 69:23 87:18 95:13 96:6
96:9 97:23 98:7 101:15 109:13
109:21 113:19 114:2,11 146:24
168:8,10,10,13,15 169:17 188:17
favor (5) 11:11 12:7 13:23 42:15
60:4
favours (1) 50:25
fear (1) 72:12
feasible (1) 119:21
features (3) 58:15 59:14 119:6
federal (5) 47:22 114:12 141:23
152:6,9
feedback (7) 12:13 13:11 23:22
77:2 136:22 201:5,12
feel (16) 46:19 47:9 99:13 108:10
138:4,23 148:23 150:9 151:22,23
160:23 165:8 170:9 180:23 182:4
183:10
feeling (1) 173:4
feelings (1) 94:15

fellow (6) 36:9 61:15 62:6,7 65:4
140:13
felt (2) 89:3 201:5
fewer (2) 133:22 147:8
FHV (45) 3:24 17:5 21:18 22:17
24:19 25:8,14 26:13,15 27:13
28:7 29:11 31:5 33:15,20 34:19
38:4 43:7,18,21 44:12,14,23 45:6
51:15 69:2 78:24 82:6 98:16
110:15 111:10 126:6,21 127:3,6
133:19,19 164:9 167:20 169:23
170:22 180:15 193:20 199:5
211:15
FHVs (14) 17:7 32:10,20 33:8
111:4,21 112:22 114:14 131:4,6
133:16 134:9,23 200:5
field (4) 50:25 62:23 167:14 193:8
figure (4) 29:2 64:16,22 175:17
figured (1) 154:2
fill (1) 40:14
filling (1) 117:8
final (4) 13:18 26:3 144:13 193:17
finally (5) 25:6 51:22 107:25 139:3
168:21
financial (5) 26:17 47:13 60:19
78:7 102:17
find (11) 28:2 87:24 89:17 122:13
136:8 151:4 157:19 158:20 177:8
192:7 207:4
finding (6) 19:10 49:3 89:16
113:11 188:8 207:21
fine (4) 60:18 175:22 178:16
207:14
fine-tune (2) 82:24 100:18
fined (1) 198:20
finer (5) 21:14 26:24 35:22 203:11
203:17
fingerprint (3) 75:10 87:6,7
fingers (1) 9:17
finish (2) 134:10 136:25
finished (1) 111:11
finite (1) 102:9
firmly (1) 141:4
first (32) 5:5,17,24 10:12 13:7 23:5
23:6 25:22 26:15 28:10 33:22
34:14 36:20 47:24 51:15 54:6
60:3 66:18 77:24 78:16 93:8,10
126:9 141:4,19 149:3 164:12
165:13 180:20 197:12 204:22
209:4
firsthand (1) 95:21
five (11) 8:4 35:10 38:11 44:19
58:3,5 62:23 64:7 80:17,18 187:2
flawed (1) 171:15
fleet (3) 61:16 103:24 114:4
fleets (4) 44:17 61:22 102:16 111:3
flexibility (1) 20:24

flinch (3) 185:19,22,22
flip (1) 131:24
floating (1) 83:10
flood (1) 172:18
FLOOR (1) 1:11
Flores (1) 182:16
focus (5) 33:21 140:15 154:6
160:22 205:25
focused (1) 84:19
focuses (2) 141:10,17
focusing (1) 66:20
FOIL (14) 67:10 71:12 74:14 82:19
83:4,9,19,20 148:11,12,22,23
156:10 206:18
folks (4) 28:15 72:25 135:13
153:10
follow (4) 24:7 62:3 74:2 88:23
following (10) 13:9,12 15:16,17,18
17:24 24:13 60:8 126:8 203:25
footing (1) 8:18
for-hire (24) 30:17,25 36:25 37:15
41:16 50:25 66:12 85:12 92:14
101:20,23 103:9,23 110:6 118:6
118:11 149:22 155:6 160:16
166:14,17 167:16 178:20 208:24
forbidden (1) 148:12
force (4) 36:13 99:19 100:6 118:13
forced (3) 119:11 209:9 211:2
Forcing (1) 197:24
foregoing (1) 139:18
foreign (2) 149:17 152:13
foreseen (1) 143:15
forget (2) 116:6 123:3
forgets (1) 177:13
Forgive (1) 109:7
forgot (1) 180:2
formal (1) 17:18
former (3) 3:22 114:3,4
formulas (1) 82:9
formulation (3) 14:9,10 16:16
forth (5) 62:21 124:22 155:10,16
198:11
forthcoming (1) 116:6
fortunately (1) 175:13
Forum (2) 3:14 65:18
forward (14) 12:15 17:21,25 19:13
63:21 68:17,18 73:22 113:9
127:23 153:6 169:22 201:18
208:6
fought (1) 137:18
found (6) 20:5 43:8,12 75:6 93:18
162:11
foundation (2) 66:8 132:15
four (3) 64:7 66:5 88:14
Fourth (2) 70:10 159:8
FPF (2) 65:19 66:4
fragile (1) 169:2

**Taxi and Limousine Commission Meeting
January 5, 2017**

framework (1) 141:22
frameworks (1) 142:7
frankly (1) 162:25
free (1) 5:14
freedom (5) 25:16 66:9 70:13,16 137:19
freedoms (1) 137:17
frequent (1) 133:6
frequently (4) 26:20 47:14 105:2 210:5
friend (1) 136:10
friends (2) 137:25 146:17
friendship (1) 10:2
front (2) 180:18 186:8
Frontier (1) 66:7
frustration (1) 99:25
full (2) 7:23 22:11
fully (3) 73:2 137:9 205:2
fund (3) 194:23,24,25
fundamentally (1) 143:2
funded (1) 32:3
funny (1) 143:20
further (13) 16:25 28:11 53:2 76:8 118:10 124:9 125:22 127:21 142:20 182:5 195:10,16 214:14
furthermore (3) 149:7 151:25 209:17
future (7) 3:14 48:13 65:18 148:19 148:19 170:25 200:12

G

G (1) 204:4
gain (1) 102:9
Gale (3) 3:21 109:6,9
garages (1) 178:5
gas (1) 99:21
gather (1) 191:22
gathered (3) 108:15 123:12 139:6
gathering (1) 190:17
gathers (1) 107:10
Gautam (4) 4:3 127:8 140:11,13
gender (1) 46:15
general (12) 2:13 25:11 41:12 66:22 67:7 72:3 81:15 85:16 86:22 87:15 138:25 144:3
General's (1) 128:13
generally (3) 81:11 133:23 134:24
generated (1) 55:18
gentlemen (2) 183:17 185:23
genuinely (1) 166:23
geographic (2) 66:23 147:20
Geovanie (3) 4:9 171:25 172:4
Geraci (4) 3:10 45:12,15,17
Germany (2) 137:24 138:2
Gerstman (19) 3:16 85:25 86:2,3 89:24 90:3,7,13 91:16,20,23 92:7 92:12 93:4,8,15 94:11,18,21

getting (13) 6:22 28:8 34:15 93:21 106:11 131:18 157:15 178:15 179:21 181:4,4 184:16 188:7
Gidari (3) 128:8,12,16
gig (1) 198:9
give (21) 16:11 37:16 57:17 59:24 71:19,21 76:6 87:2,6 88:5 107:13 107:19 117:4 124:24,25 175:22 186:21 201:7,12 203:3,6
given (12) 21:8 22:6 32:10 69:2 75:17 104:22 126:13 127:22 137:10 139:18 144:2 160:10
gives (3) 64:23 177:16,17
giving (6) 30:8 51:9 71:8 145:17 159:25 190:23
glad (7) 6:9 31:12 35:17 52:25 56:25 62:3 144:12
globe (1) 115:20
go (52) 5:16 11:2 12:15 15:18 16:10 22:3 30:19 31:10 34:8 56:10 57:6,22 87:4,24 89:18,24 90:20 91:7,20,22 93:4 94:8 105:3 105:6,14,22 106:18 117:14 131:20 134:15 136:6 137:19 160:25 173:22 176:6,11 177:24 177:25 178:12 183:24,25 185:16 186:7 187:2 189:3 194:14 200:6 200:18 208:7 209:7 210:4,17
goal (17) 18:3 26:23 52:10 69:24 76:23 78:12,22 96:8 100:3 118:4 118:25 146:25 151:21 166:16 191:19 197:3 202:21
goals (9) 19:14 68:14 77:12 98:19 125:21 141:6,13 142:3,5
goes (6) 77:25 86:18,18 88:8 161:23 188:18
going (75) 5:3,19 8:11 9:5,12 10:7 10:8 15:6 17:21 23:25 29:24,25 52:16 57:14,15 58:8 59:14 65:2 68:14 77:20 90:17 91:23 92:18 94:16 106:23 107:4,6,11 108:9 112:8 117:10 118:24 122:21 128:4 130:12 134:2,11 136:19 140:23 152:23 153:7 155:22 172:14,15 178:22 179:3,10 183:11 184:12 185:7,13,14,18 187:20 188:4 189:25 190:12,21 190:23,24 191:3 193:6,24,25 194:11,12 195:24 196:6,16 198:11 200:8 202:16,23 210:20 211:3
Gold (1) 136:3
Goldbetter (12) 3:20 104:13,14,15 105:18,21 106:17,22 107:3,12,24 108:20
gong (1) 191:4
good (48) 5:2 11:18 18:19 21:5

30:3,4,5 35:3,6,7,7 36:7,8 38:14 38:24 41:13 42:10 45:15 49:5 53:7 61:14 65:24 76:16 101:5 104:14 106:5 109:3 113:16 117:6 125:16 131:5 140:12 146:8 153:17 159:16 164:8 166:9 172:7 175:17 180:14 182:25 183:5,5 197:8 201:22 204:15 208:20 210:14
Google (2) 57:16 58:6
gotten (2) 94:14 115:17
government (25) 39:10 47:22 73:15 78:13,14 82:16 84:25 130:19 131:21 133:3 135:17,20 136:18,21 138:19 139:12 141:17 143:12 144:17 152:9 156:6,15,21 156:21 212:18
government's (2) 78:18 137:6
governmental (2) 128:22 142:3
governments (2) 41:11 141:24
GPS (3) 26:7 103:2 186:15
graduated (1) 21:14
grandmother (1) 169:4
grant (2) 12:13 13:16
grants (4) 13:2,4,6,15
granular (2) 67:24 72:15
granularity (1) 68:8
grassroots (1) 36:11
grateful (1) 9:22
gravely (1) 171:15
gravitational (1) 99:19
great (13) 27:17 36:3 38:8 40:15 62:25,25 68:20 76:12 153:4 159:5 176:20 181:9 206:25
greater (6) 47:16 74:21 75:16 155:8 169:18 170:16
greatest (1) 110:7
green (17) 12:13 13:2 15:2 32:10 33:7 37:11 40:9 44:16 101:25 102:16 103:12 104:5 111:2 113:3 132:14,19 183:19
Greenawalt (9) 4:4 146:7,8,10 148:14 150:3 151:5,9 153:4
greens (5) 32:18 37:6 61:4 134:25 193:11
grief (1) 95:21
ground (1) 149:16
group (2) 49:7 181:24
groups (5) 15:22 16:7 66:6 68:5 181:23
grow (1) 76:24
growing (6) 7:19 8:23 47:16 161:2 162:20 176:4
grows (1) 72:21
growth (2) 45:4 160:15
guarantee (1) 190:23
guarantees (1) 148:17

**Taxi and Limousine Commission Meeting
January 5, 2017**

Guard (1) 10:20
guess (10) 75:11 116:13 142:23
 145:8 154:5 155:18 156:24 158:3
 158:4 197:11
guests (1) 17:19
guidance (1) 116:7
guide (2) 68:11 76:8
guys (9) 57:4 60:20 117:13 125:2
 174:19 175:14 178:22 179:24
 189:4

H

habits (3) 75:7,19 165:4
hacked (3) 152:8 200:19 210:6
hackers (2) 40:22 152:4
hail (1) 132:14
hails (3) 134:25 196:16 203:9
half (2) 97:12 185:10
hand (6) 10:7 59:24 60:6 88:8
 149:5 214:19
handhelds (1) 6:24
handicap-accessible (1) 183:19
handing (1) 174:18
handle (1) 179:19
handled (2) 6:17,19
hanging (1) 94:2
Hans (8) 4:3 127:8 140:11,12,13
 144:11 145:7 146:3
happen (5) 64:4 126:21 139:5
 143:15 150:10
happened (1) 197:18
happening (6) 28:6 48:13 105:11
 105:17 133:23 149:25
happily (1) 150:25
happy (30) 18:3 27:7 35:24 56:24
 68:6 69:18 72:4,8 73:24 113:16
 121:10 126:19 140:7,25 153:2
 159:4 166:7 176:10 188:19,23
 190:5 191:13 195:15 197:9,11
 206:11 207:2,20 208:3 213:7
hard (3) 40:12 113:6 180:6
harder (1) 175:8
hardware (2) 103:5 198:7
Harlem (3) 188:24 199:16 200:2
harm (1) 47:8
hate (2) 84:9 97:25
head (2) 10:9 204:3
headquartered (2) 146:14 152:19
health (3) 31:25 46:10,22
hear (8) 128:5 144:12 156:19
 159:4,6,12 174:13 191:22
heard (7) 21:16 95:20 151:15
 158:15 160:14 161:9 168:2
hearing (26) 1:11 2:2 12:22 14:4
 15:17,18 29:25 30:7 42:21 76:10
 95:4 107:21 108:12 109:12
 137:13 152:25 164:13 182:3,8

185:10 188:5,14 189:2 210:18
 213:5,9
hearings (1) 164:14
heavily (1) 75:2
heavy (1) 20:4
heck (1) 136:13
held (1) 12:22
Hello (2) 86:2 172:3
help (19) 28:20 31:15 34:8 37:23
 48:15 51:15,18,19 53:9 68:11,12
 76:8 101:17 107:10 164:18
 172:15 173:8 188:20 205:14
helpful (3) 68:3 158:4 181:25
helping (5) 28:16 35:20 106:12,13
 106:14
helps (5) 25:2 39:9 132:18 157:23
 158:7
hereunto (1) 214:18
herring (2) 86:24 132:3
hey (1) 178:16
hi (3) 9:10 109:3 174:10
high (5) 54:3,3 75:25 84:3 97:23
High-profile (1) 41:9
high-quality (1) 42:2
high-tech (1) 119:4
higher (1) 73:15
highlight (4) 49:14 66:10 141:2
 142:23
highlights (1) 141:14
highly (3) 68:22 126:16 147:2
highs (1) 45:3
highway (4) 3:10 45:13,18 186:11
HIPAA (1) 68:9
hire (2) 20:18,19
hired (2) 6:9 8:8
hiring (3) 8:4 123:10 179:18
historic (1) 14:15
histories (1) 71:23
history (1) 38:6
hit (3) 35:21 59:4 118:14
hits (2) 59:5 189:13
hold (5) 36:17 93:23 124:24 148:2
 194:8
holder (1) 114:4
holding (2) 30:7 109:11
holidays (2) 201:7,9
home (13) 78:6 114:11 130:6,8
 133:25 134:24 165:14 178:13
 183:25 184:6,7 200:6 209:7
homes (3) 133:22 199:12 200:10
honest (1) 87:3
honestly (1) 72:24
honked (1) 177:2
honking (1) 177:6
honored (1) 95:11
hoots (1) 149:15
hope (3) 55:23 100:14 165:22

hopefully (1) 31:23
hoping (1) 178:10
horrible (1) 91:10
host (2) 67:24 150:6
hour (18) 21:10 22:3,10,11,12
 23:10 50:2,4,6 53:20,22 55:9
 56:10 80:18 152:22 184:15 186:7
 205:15
hourly (2) 59:3,5
house (4) 94:5 130:9 136:3 173:22
housekeeping (1) 5:7
Hova (13) 3:15 65:10,11 76:14,16
 76:17 79:20,24 80:8,21 81:16
 83:8 84:12
hub (1) 152:15
huge (1) 60:19
human (1) 169:2
hundred (7) 7:14 101:12 103:6
 115:11 121:17 160:21 179:11
hurt (2) 118:5 186:5
hypocritical (1) 174:19

I

i.e (1) 17:10
Ibrahim (8) 4:17,17 208:19,19,20
 208:21,21 210:7
ID (1) 130:10
idea (2) 90:21 92:21
ideas (4) 15:19 61:8 68:19 208:8
identifiable (4) 75:4 136:6,12,16
identified (2) 24:15 188:7
identifiers (1) 112:7
identifies (1) 79:9
identify (4) 16:21 26:19 136:19
 209:22
identifying (4) 25:20 75:9 130:4
 188:9
identity (2) 130:7 134:6
ignore (1) 38:9
ignores (1) 49:17
illegal (5) 10:24 32:5 50:16 196:15
 196:15
illustrious (1) 10:17
image (1) 84:22
imaginative (1) 36:15
imagine (2) 171:5 176:21
immaterial (1) 49:22
immediately (1) 88:10
impact (8) 48:7 84:22 85:17
 126:23 132:9 138:10,14 166:13
impacted (2) 162:14 201:15
impaired (3) 46:3,5,7
impairment (2) 37:22 109:25
impediment (1) 81:22
imperfect (1) 99:12
implement (6) 26:12 35:20 44:8
 53:17 60:8 88:22

**Taxi and Limousine Commission Meeting
January 5, 2017**

implementation (5) 20:14 34:14
124:8,10 204:7
implemented (4) 123:25 124:7
131:8 165:22
implementing (5) 32:19 98:4
110:18 124:24 147:21
implements (1) 39:14
implicate (1) 142:22
implicated (1) 151:23
implication (1) 142:25
implications (5) 137:11 192:8,9
196:21,21
imply (1) 142:22
important (27) 19:12 30:7 31:17
31:18 32:14,20,22 35:23 43:25
47:24 48:4 57:3 58:12 59:10,12
63:10 74:20 87:19 114:10 128:17
128:25 129:2 146:24 154:23
157:19 158:25 182:7
importantly (2) 67:25 126:22
impose (2) 149:21 155:3
imposed (1) 195:12
imposes (1) 195:12
imposing (2) 195:13 205:4
imposition (1) 123:17
impressed (1) 6:5
improve (5) 19:6 22:19 43:21
44:17 101:18
improved (1) 19:10
improving (1) 166:11
in-person (1) 15:15
in-vehicle (1) 169:18
inappropriate (1) 185:16
inasmuch (1) 8:14
inaudible (3) 185:8 187:22 188:25
inch (2) 89:4,4
incident (3) 16:8,9,12
incidents (2) 48:10 74:5
include (4) 11:24 21:22 25:19 78:5
included (3) 128:10 147:16 160:11
including (15) 13:10 16:14 31:5
43:6 44:4,9 45:5 58:15 101:25
102:2,4 110:5 114:20 115:13
146:21
income (8) 46:16 98:22,23 173:10
181:2 202:19 211:22 212:24
incomplete (1) 12:5
incorporate (1) 64:23
incorporating (1) 64:8
increase (8) 12:25 114:19 144:18
145:9 160:17 198:5 203:16,17
increased (9) 19:20 43:14 45:2
46:18 78:3 114:17 121:13 160:22
161:6
increasing (2) 152:2 157:15
incredible (1) 86:11
incredibly (2) 74:19 158:25

increment (2) 202:11 203:11
incremental (1) 122:17
incur (1) 198:17
incurred (1) 27:21
independent (11) 14:13 98:20
173:17 176:3 184:13,19,22,24
187:16 195:14 199:3
independently (1) 77:8
indication (1) 22:18
indicted (1) 185:15
individual (10) 33:13 52:25 63:22
69:8,15 71:9 89:20 126:23
140:18 151:24
individually (1) 186:2
individuals (3) 66:3 72:2 86:8
industries (3) 20:7 28:13 85:12
industry (39) 21:10 24:19 25:8
26:13,15 27:11,22 28:7 49:7
60:18 61:24 76:22 77:10 82:6
83:25 84:20 99:17 115:19 116:4
116:7 118:6 125:5 128:19 150:12
154:14 164:9 165:7 166:14
172:16 179:25 193:10 196:19
197:18 199:5 201:14 202:22
206:15 211:19,25
inefficient (1) 100:5
inescapable (1) 45:20
inexpensive (1) 64:11
inflammatory (1) 53:15
influence (3) 109:17,23 110:2
inform (1) 124:21
informed (5) 8:23 38:7 129:13,22
171:4
infrastructure (1) 179:12
inherited (1) 6:15
inhumane (2) 170:12,13
initial (8) 20:11 41:15 60:21 61:5
74:9 95:12 123:24 164:21
initially (2) 72:13 74:8
initiative (7) 42:19 63:18 101:17
125:22 143:5 154:25 188:16
injures (1) 37:25
injuries (1) 42:20
injuring (1) 36:22
injury (2) 43:10 47:6
innovation (3) 140:16 141:12
152:16
input (2) 104:22 201:17
inside (4) 5:9,10 87:21,22
insignificant (1) 202:12
inspectors (3) 6:18 99:24 149:15
instance (3) 143:25 145:16 210:2
instances (2) 24:9 168:6
instituted (1) 20:17
institutions (1) 78:9
instrumental (1) 7:5
insult (1) 212:19

insurance (1) 32:2
intellectual (1) 140:16
Intelligence (1) 40:24
intended (1) 197:3
intent (3) 163:20 206:18,19
intently (1) 158:23
interaction (1) 162:13
interactive (2) 54:12 57:5
interest (12) 18:4 49:2 65:12 76:3
86:21 88:21 89:7 94:16 120:6
150:13 183:14 196:8
interested (2) 15:14 214:16
interesting (5) 93:9 150:24 174:3
209:23 210:5
internally (1) 73:14
international (2) 141:24 145:22
Internet (3) 70:19 128:9,14
interplay (1) 42:25
Interpreter (1) 201:22
interrupt (2) 67:3 119:24
interrupting (1) 89:23
intersect (1) 141:10
intersections (1) 115:25
intervening (1) 131:11
interviewed (1) 5:25
introduce (1) 15:13
introduced (3) 102:21 126:13
209:8
introduction (1) 17:18
intrusive (1) 162:6
invade (1) 106:16
invested (1) 183:18
investigate (2) 48:10 157:21
investigated (1) 90:18
investigation (3) 32:7 36:20 91:12
investigative (1) 157:25
investigators (1) 7:11
investigatory (1) 207:9
invitation (2) 42:4 45:16
invite (2) 107:18 209:12
invited (1) 134:15
inviting (1) 48:18
involve (1) 47:2
involved (2) 43:13 166:18
involvement (2) 138:25 190:3
involving (2) 16:8 42:25
iPad (1) 177:21
irony (1) 82:22
irrelevant (2) 73:3 80:3
irritating (3) 158:13,21 159:2
Island (3) 10:13 130:3 209:20
issuance (1) 52:3
issue (29) 30:19 31:7 34:5 47:25
48:4,12 51:23 70:24 76:9 79:12
80:25 87:19 90:18,24 91:17
94:12,15 106:20 138:21,21,22
143:12 152:10 164:18 165:9

**Taxi and Limousine Commission Meeting
January 5, 2017**

173:16 178:19 195:6 204:25
issued (3) 26:25 51:23 59:22
issues (12) 32:25 47:12 87:20
 108:9 140:22 143:13 145:12
 146:21 161:3 175:9 190:10 207:3
IT-wise (1) 55:9
item (1) 111:22
iterations (1) 164:21

J

Jacob (2) 117:3,8
Jacques (1) 2:5
Jane (2) 209:19,22
January (6) 1:9 18:13 205:22
 209:15,16 214:19
Jarret (4) 3:15 65:10 76:14,17
Jennifer (3) 2:22 214:7,22
Jerome (9) 4:5 153:16,17,19
 155:17 156:18 158:2 159:4,11
JFK (1) 184:12
Jiha (7) 2:5 91:19,22 93:2,5,13
 116:24
Joaquin (3) 4:15 202:2 204:10
job (3) 6:2 152:6 179:2
jobs (1) 174:23
John (1) 90:12
Johnson (1) 30:10
join (1) 10:8
joining (2) 9:8 11:3
Jose (4) 4:14 191:12 192:4 197:4
Joseph (3) 4:5 153:16,18
Joshi (7) 2:4 42:11 95:3 109:11
 191:15 201:23 204:16
Julia (3) 3:18 94:25 95:5
July (8) 20:13 23:2 24:9 39:22 60:7
 110:12 123:25 124:19
July's (1) 18:25
jump (1) 77:20
jumping (2) 89:15 177:5
June (4) 42:21 96:10 166:21 168:7
jurisdiction (2) 149:21 156:9
jurisdictions (1) 144:22
justification (3) 78:15 85:4 158:6
justify (1) 123:17

K

Kabessa (15) 3:12 53:6,7 54:18
 55:6,12,16 56:17 57:2,21 58:2,18
 59:6 61:9 62:3
Kala (2) 189:18,24
keep (10) 22:22 29:17 81:12 92:21
 118:18 134:11 172:20 175:10
 187:24 210:24
keeping (3) 25:3 154:12 170:16
Keith (3) 3:23 117:7,20
Ken (1) 2:9
key (2) 31:4 177:7

kick (1) 56:12
kicked (1) 177:19
kidnapped (1) 89:13
kids (1) 184:15
kill (1) 186:5
killed (3) 36:19 95:18 169:12
killing (2) 36:22 105:9
kills (1) 37:25
kind (7) 8:7 86:19 96:25 150:9,13
 174:19 175:25
kinds (1) 105:5
Kite (5) 3:18 94:25 95:2,5 100:22
knew (1) 115:6
knocking (1) 212:6
knowing (4) 15:6 96:17 114:8
 195:23
knowledge (4) 39:20 196:7,7,11
knowledgeable (1) 167:13
known (3) 36:14 39:16 204:23
knows (3) 86:15 131:21 196:5
Komanoff (4) 3:6 36:5,7,10

L

L-A-N-Y (1) 159:22
LA (1) 144:25
Labadie (6) 3:3 18:19,21 27:16
 28:4 29:9
labor (1) 120:22
Laboratory (1) 40:24
lack (3) 19:23 45:23 114:16
lacks (1) 111:3
ladies (2) 183:17 185:22
laid (2) 114:7 158:5
land (1) 156:2
Lander (7) 3:5 30:2,4 36:3 87:14
 149:10 200:13
lanes (1) 44:10
LANY (2) 159:22 160:4
lapses (1) 46:4
large (8) 34:19 67:20 72:6 84:24
 94:14 114:3 132:9 188:17
larger (5) 33:22 64:19 94:15
 106:19 112:17
largest (1) 197:15
lasting (2) 23:8,15
lastly (1) 207:7
late (2) 45:23 198:21
laudable (1) 118:3
launch (2) 146:18 210:2
launching (1) 12:16
Lauren (3) 3:14 65:13,17
Lauvienska (1) 2:7
law (21) 4:3 6:25 13:18 25:17
 39:14,15,16 60:6 70:7,7,13 76:22
 83:19 128:8 132:14,19 140:14,19
 148:17 201:15 207:13
laws (4) 114:13,14 115:12 199:4

lawsuits (1) 86:7
lawyers (2) 6:24 123:11
lead (5) 46:8 47:7 109:25 137:7
 198:22
leadership (2) 65:20 204:25
leading (2) 10:22 66:6
League (2) 3:20 104:16
leagues (1) 200:21
leaked (1) 83:13
leap (1) 28:8
learned (2) 8:3 16:22
learning (2) 7:4 8:8
lease (1) 49:8
leave (2) 183:23 184:3
leaving (1) 8:17
led (2) 30:22 97:2
Lee (2) 4:7 164:6
left (9) 23:19 25:23 116:23,24
 123:3 164:3,4 178:14 195:19
leg (1) 171:9
legal (5) 8:11 15:12 48:8 161:6
 207:25
legitimate (1) 158:6
length (2) 37:14 205:19
let's (8) 49:3 87:2 90:13,15 116:8
 136:24 174:24 176:20
letter (3) 66:14 128:10,13
letters (1) 77:7
letting (1) 180:17
level (9) 29:19,20 41:20 46:16
 67:14,24 73:10,15 102:15
leveled (1) 193:8
levels (1) 43:4
leveraging (1) 6:23
Levin (1) 30:10
license (5) 16:14,16 24:23 91:2
 199:20
licensed (10) 14:6,12 49:8 110:9
 110:15 123:15 125:18 145:20
 157:20 161:19
licensee (1) 56:7
licensees (2) 143:23 144:5
licenses (2) 199:24 202:21
licensing (2) 11:20 144:7
lies (1) 41:22
Lieutenant (1) 10:19
life (4) 46:22 113:25 169:2 197:16
light (3) 68:24 108:12 186:21
lights (1) 157:18
likelihood (1) 43:12
likes (1) 133:5
limit (20) 15:5 17:22 20:17,19 22:8
 22:9 23:10,17 26:20 51:17 59:3,5
 72:11 77:13 96:20 155:25 166:22
 170:5 187:15 205:10
limitation (7) 50:2 146:22 154:9,22
 205:4,15 206:18

**Taxi and Limousine Commission Meeting
January 5, 2017**

limited (2) 33:25 176:13
limiting (2) 108:8 110:14
limits (18) 14:4,11,24 22:3 27:5
 31:9 34:7,10 52:2 56:4 97:15
 98:22 99:2,3 156:7 161:24 162:9
 164:25
limos (1) 193:20
Limousine (14) 1:4 4:6 5:5 9:21
 30:14 40:3 42:12 48:3 61:25 95:3
 110:8 159:20 170:8 201:25
line (2) 47:11 97:15
link (2) 25:19 89:19
linked (1) 19:19
list (3) 15:4 51:11 182:5
listen (1) 18:3
listening (1) 158:23
literally (1) 6:16
litigation (1) 94:7
little (12) 55:25 77:20 98:6 105:2
 107:19 109:7 115:24 128:20
 144:5 155:20 176:19 180:18
livable (2) 95:10 211:22
live (10) 54:12 57:6 130:2,5 136:2
 138:2 186:24 199:10,22,25
lived (2) 131:8,12
livery (14) 3:12,23 4:13,14 53:7
 59:11,17 61:9 117:22 119:14
 194:23 197:15 203:2,13
lives (1) 199:23
livestream (3) 9:10,11 164:15
living (4) 110:4 165:15,18 180:7
loading (1) 40:11
local (3) 13:17 39:15 85:10
location (53) 11:25 12:2,3 14:25
 21:24 22:5,17 24:24 25:2,24 26:4
 26:6 28:9 37:4 52:8 66:21 68:22
 69:3 71:5,23 72:17,19,20 74:10
 75:21 77:17 79:5 80:2,12,13
 81:21 85:6,22 110:25 119:10
 121:2 126:5,11 127:4,12,21,22
 138:20 140:5 147:19,20 150:22
 151:13,14 154:20 157:12,23
 198:2
locations (11) 41:20,21 72:6 79:23
 127:25 139:23 147:25 173:18
 194:12 199:7 205:12
log (1) 53:21
logged (1) 52:8
logically (1) 22:14
logs (1) 198:21
long (18) 10:12 15:4 30:20 51:11
 51:18 57:13,23 58:8,9 100:3
 105:11 114:12 115:4 161:22
 181:12 189:15 203:6 209:20
longer (15) 19:23 43:14 46:11
 54:11 55:18,22 57:5,10 91:15
 115:21 172:19,21 209:12 211:2,5

longstanding (2) 141:21 154:7
look (24) 7:17 12:15 17:25 57:23
 68:17,18 69:15 71:22 72:8 76:9
 82:23 88:7 93:25 105:24 113:9
 117:11,12 153:5 174:22 178:25
 196:19,24 201:18 208:6
looked (3) 53:9 98:18 200:22
looking (7) 53:12,17 63:21 113:4
 124:19 165:11 179:11
looks (2) 116:7 181:3
loophole (1) 38:8
Lords (1) 203:20
lose (2) 183:20 184:25
loss (1) 95:21
lost (1) 113:22
lot (26) 28:5 30:22 72:24 81:3 86:9
 87:20 100:12 115:17 128:3
 129:14 130:11 132:21 133:19,20
 136:13 142:24 151:17 156:14
 160:13 161:10 175:8 179:18
 193:7 199:18 209:23 211:23
lots (6) 9:9 71:7 108:13 127:14
 150:23 158:11
love (6) 72:5 76:5 134:10 165:5
 188:15 210:19
loved (1) 95:22
loves (1) 6:12
low (1) 147:5
lower (4) 22:14 118:12 209:10,19
LPEP (1) 122:20
Lucien (3) 3:21 109:2,4
Lucite (1) 9:14
Luckily (1) 179:20
Luisa (3) 95:17 169:4,12
luxury (1) 159:23
Lyft (11) 4:16 90:15,20 102:5
 103:17 111:5 178:21,24 180:21
 204:18,18

M

Ma'am (1) 187:9
machine (1) 6:8
machines (1) 179:20
Madam (2) 91:16 201:23
Maddie (1) 18:18
Madeline (2) 3:3 18:20
mail (1) 178:15
main (1) 108:15
Maine (1) 114:8
maintain (1) 29:16
maintaining (2) 32:21 33:2
major (4) 32:6 36:21 43:9 89:11
majority (7) 14:12 24:11 110:9
 164:23 165:19 199:9,25
makers (1) 76:22
making (21) 8:21,22,22 21:4 30:24
 39:9 46:4 57:25 106:24 107:3

111:19 114:10 132:12,23 149:17
 166:16 171:4 184:19 185:18
 190:20 198:25
MAMARONECK (2) 1:22,22
manage (6) 14:13 44:7 48:7 98:21
 170:25 188:12
management (8) 44:2 47:23 48:14
 61:17,21 141:22 142:21 152:9
Manager (2) 95:5 204:17
managers (1) 7:12
mandate (2) 150:2 156:9
mandated (1) 64:19
mandates (2) 39:16 141:19
Manhattan (10) 1:12 38:13 44:4
 95:18 101:14 109:6,10 132:17
 133:17 209:20
Manhattan's (1) 112:24
manner (3) 146:20 207:6,17
manual (1) 43:2
manually (2) 64:4,16
Manuel (1) 182:14
Manyadou (19) 4:12 182:24,25
 183:2,4,22 184:5,7,11 185:21
 187:9,17 188:22 189:21 190:4,14
 190:22 191:3,7
Maps (1) 58:6
margins (1) 118:17
Marino (53) 2:8 35:15 55:11,13
 58:16 61:18 67:3 79:18,21 80:6
 80:14 81:2 89:22,25 90:4,11 92:4
 92:9 94:19,22 105:16,19 107:8
 119:23 120:4,8 121:5,14 125:6,9
 125:12 129:5,7 131:12 134:19,22
 135:5 136:9,23 138:14 151:3,8
 152:20 158:19 159:8 172:10
 183:21 184:3,6,9 187:4 192:7
 196:9
Mario (3) 4:10 174:9,11
market (4) 44:24 62:16 64:8 65:4
marriage (1) 214:16
Mashariki (4) 3:7 38:20,22,25
mass (1) 112:23
massive (2) 161:16 162:3
matchmaking (1) 7:19
materials (2) 34:13 128:11
math (1) 167:17
matter (7) 87:4 163:20 168:19
 171:21 187:10 214:11,17
matters (2) 78:6 79:22
max (1) 97:14
maximum (3) 97:6 168:23 202:7
Mayor (1) 170:7
Mayor's (3) 3:7 38:20 39:3
McKay (1) 208:16
mean (36) 55:14 64:12 67:5,6
 80:21,22 81:4,10 82:22 86:10
 90:5 92:3 106:19 121:6,16,17

**Taxi and Limousine Commission Meeting
January 5, 2017**

129:9 131:13,19,20 135:7 143:20
151:5,17 156:21 159:5 178:17
187:7 196:10 210:23,24 211:7,15
212:9,22,23
meaning (1) 21:20
meaningful (1) 52:11
means (5) 53:25 59:20 142:2,9,13
meant (1) 164:23
measure (2) 110:20 126:16
measured (2) 96:2 142:12
measurement (3) 96:7 97:5,18
measures (4) 43:20 45:10 114:19
192:15
measuring (2) 97:20 169:23
mechanism (1) 192:24
mechanisms (1) 207:25
medallion (5) 16:15,17,22 32:11
86:14
medallions (1) 49:10
media (3) 15:23 129:15 161:5
medical (1) 78:7
Meera (1) 2:4
meet (20) 11:3 15:9 17:24 51:16
52:25 76:5 115:23 121:10 122:7
124:3 125:2 134:15 153:2 170:14
172:9 186:25 190:19 197:2,3
211:4
meeting (12) 5:4 11:12 15:15
17:25 19:2 51:19 61:10 107:20
129:21 153:6 201:18 208:6
meetings (2) 68:18 164:20
meets (1) 142:7
member (9) 3:5 5:22,22 10:20 30:2
77:5 149:10 199:15,16
members (13) 9:6 15:11 30:9
35:11 42:11 53:10 59:18 87:12
95:3 104:21 107:23 202:5 203:14
membership-based (1) 95:7
men (1) 104:25
mental (2) 46:10 96:16
mention (1) 198:8
mentioned (8) 23:20 70:12 103:8
103:15 200:17 207:19 209:3
212:8
mentions (2) 168:8 200:13
mercy (1) 55:23
message (3) 85:7 90:23 189:11
messages (2) 138:13,19
messaging (1) 109:18
messenger (1) 124:14
met (2) 5:24 51:22
meter (3) 50:19 86:17,18
method (2) 98:5 142:4
methodology (5) 55:2 63:22,24
64:3 100:14
metric (1) 206:5
Metro (1) 101:13

mic (2) 117:15,16
Michael (6) 3:10 4:8 45:16 48:23
166:5,9
Michigan (2) 4:3 140:14
mid-size (1) 162:24
middle (3) 56:12 184:9 193:20
Mike (1) 45:12
miles (2) 38:11 186:7
million (4) 38:16 126:21 127:6
202:14
millions (2) 206:24,24
mind (2) 45:22 89:22
minimum (2) 211:14,18
mining (1) 163:19
minute (2) 23:10 50:10
minutes (23) 11:10,11,15 15:5,7
23:8,9,11,15,16,18 41:6 58:4
76:4 80:17,18 116:17,17 152:22
176:23,24,24 210:22
MIS (1) 28:15
mischaracterization (2) 135:22
136:2
mischaracterized (1) 16:9
miscommunication (1) 76:7
misconception (1) 58:19
misinformation (2) 129:16 130:2
misinformed (1) 129:20
mislead (1) 174:14
mispronounce (1) 182:24
missed (3) 10:14 60:14 197:12
mission (5) 42:17 95:15 156:3,13
192:22
mistake (3) 132:4,7,8
mistaken (1) 15:24
MIT's (1) 40:23
Mitchell (1) 2:9
mitigate (1) 66:16
Mizhquiri (1) 208:11
mobile (1) 119:5
models (2) 31:24 197:24
modern (1) 175:13
modification (1) 62:21
modifications (1) 20:15
modified (2) 21:15 23:23
modify (2) 119:17 161:25
Mohammad (1) 182:11
mom (1) 118:18
Monday (1) 205:22
monetary (1) 197:22
money (11) 99:18 105:7 170:17
175:22 177:4 180:25 181:6,20
183:15 204:2 209:7
monitor (3) 54:7,8 55:4
monitored (1) 33:10
monitoring (1) 64:24
monstrous (1) 53:13
month (4) 11:4 55:19 106:9 201:11

monthly (2) 60:22 61:6
months (6) 6:22 11:6 26:11 34:7
34:14 51:24
morning (30) 5:2 11:18 18:19 30:3
30:4,8,12 36:7,9 38:24 42:10
45:15 46:13 49:5 53:7 61:14
76:16 101:5 104:14 109:3 113:16
125:16 160:14 161:10 166:9
180:14 183:24 184:4,5 197:10
mother (1) 9:8
motivated (2) 81:18,20
motor (4) 36:17 38:2 47:4 118:8
motorists (1) 43:23
mouth (1) 177:18
move (4) 24:17 94:17 108:17
169:21
moved (1) 137:24
movements (3) 69:8 75:20 85:15
moves (1) 73:22
moving (2) 99:22 187:24
MTA (2) 174:23,24
multi-agency (1) 42:18
multiple (7) 58:23,25 59:4 82:8
139:24 168:2 179:8
multiple-stop (1) 22:20
municipal (2) 41:11 130:10
Mutual (2) 3:20 104:16
mutually (1) 208:25

N

nab (1) 115:25
Naim (5) 4:16 204:14,15,17 208:9
name (34) 11:19,24 18:20 36:9
38:24 61:16 65:17 76:17 86:3
88:13 90:8 93:6,8,10 101:5 109:4
109:9 116:4 117:20 125:17
130:14 146:9 153:20 159:17
172:4 174:10,10 180:14 197:10
202:2,4 204:17 208:21 210:15
names (1) 71:17
narrowly (2) 66:19 78:17
nasty (1) 88:10
Nat (3) 3:20 104:13,15
national (5) 3:10 43:8 45:13,18
145:22
nationwide (1) 85:13
natural (2) 63:5 100:6
nature (3) 44:23 53:13 131:15
navigating (1) 43:2
near (2) 199:11 209:21
necessarily (4) 72:2 118:17 136:20
148:25
necessary (8) 14:21 78:11 82:15
89:3 147:21 149:5 150:5 154:12
necessity (2) 161:14 170:10
need (42) 28:3 36:17 47:18 54:6
57:8 59:23 60:24 105:6 107:25

**Taxi and Limousine Commission Meeting
January 5, 2017**

<p>108:2 110:24 112:5 115:3 116:5 119:4,13 121:4,19 130:14,14 134:7 140:2 141:5,8 142:19 150:19,20,21 160:22 161:25 169:23 175:17,24 180:23 181:7,8 196:18 201:3 207:10,23 209:25 210:8 needed (4) 29:19,20 37:17 126:9 needless (1) 87:18 needs (13) 24:18 35:18 45:4 47:13 53:20 62:4 78:23 88:21 101:22 138:24 160:20 196:3,17 negated (1) 98:4 negative (2) 45:25 46:13 neighborhood (7) 17:9 26:6 41:20 67:11,20 112:17 135:6 neighborhoods (3) 24:25 72:7 111:13 neither (1) 126:10 nervous (1) 180:19 net (1) 65:24 network (6) 29:13 37:2,8 44:8 102:12 103:16 never (6) 8:8 107:4 111:14 124:6 175:16 189:5 Nevertheless (1) 147:10 newly (1) 160:2 nexus (1) 41:22 NGOs (1) 78:13 NHTSA (1) 48:18 nice (3) 30:5 176:19 188:13 night (6) 21:5 45:24 46:12 115:7 184:10,17 Nolberto (1) 208:14 non-discrimination (1) 141:6 non-New (1) 145:3 non-profit (1) 65:19 non-verifiable (1) 80:15 noncompliance (1) 59:22 noon (1) 23:15 Nora (3) 2:8 121:11 192:6 norms (1) 47:20 Notary (1) 214:7 note (10) 8:19 31:14 127:13 152:21 163:4 168:5,21 181:22 206:21 207:7 noted (2) 82:14 213:10 noticed (1) 197:10 notify (1) 26:21 notion (1) 86:19 notwithstanding (1) 83:16 November (2) 12:20 95:18 NSA (1) 200:21 null (1) 60:17 number (41) 7:20 14:5,6 16:14,15 16:17,17 25:24 32:12 55:4 60:10 60:10 71:20,21 75:2 86:6 87:13</p>	<p>93:20 108:4 110:10,11,14,20 123:16 140:22 144:18 157:15 161:20 168:23 174:12 175:16 179:6 197:11 203:11 205:5,25 206:4,7,13 207:11 209:14 numbers (6) 16:22,25 24:23 178:6 202:13 203:17 numerous (3) 18:13 126:15 131:10 NYC (1) 113:5 NYPD (1) 88:4</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>O'Loughlin (4) 4:8 166:6,7,10 object (1) 126:4 objected (2) 15:23 53:8 objecting (1) 137:23 objection (1) 200:15 objections (1) 127:2 objective (1) 78:18 objectives (1) 78:19 obligation (1) 118:18 observer (1) 75:4 obtain (5) 80:7 110:23 123:18 202:24 207:13 obtaining (1) 152:4 obviously (9) 28:14,19 29:12,18 33:4,22 90:12 150:6 151:12 occasions (1) 194:5 occupancy (3) 133:21 167:15,17 occurred (1) 21:11 offense (1) 115:15 offer (7) 8:10 60:2 61:2 66:2 82:6 122:6 190:2 offered (2) 28:2 126:18 offers (1) 61:21 office (15) 3:7,21 5:23 8:13 9:3 18:22 38:20 39:3,11 41:17 63:9 128:14 130:9 152:8 199:17 Officer (1) 39:2 official (1) 9:13 officially (1) 73:8 offset (1) 35:2 oh (2) 185:7 190:25 okay (40) 18:4,10 27:17 55:24 57:16 59:9 60:8 72:9 87:13,25 88:2,18 89:17,21 90:16 91:6,18 91:25 92:16 94:24 107:5,24 112:21 116:16 125:13 135:5 151:10 164:5 166:3 173:7 177:11 178:3,13 179:9 182:20 183:4 190:22 191:6 208:13,16 old (1) 54:24 omit (3) 77:17 80:11 85:21 on-demand (1) 102:20 on-going (1) 48:14 on-time (1) 114:9 once (7) 46:17 50:23 53:23 139:5</p>	<p>155:5,5 194:11 one-night (1) 174:16 one-off (1) 40:15 onerous (3) 118:10,22,23 ones (6) 72:12 145:18 149:13 175:13 185:14 198:18 online (1) 34:2 onus (2) 55:4 59:10 open (35) 15:11 16:13 17:4,6,7,12 25:16,18 39:9,14,16,19,24 40:2,5 40:6,13,16 41:7,15,22 42:5 67:9 69:14 111:19 113:5 135:11 136:17 143:4,12 153:3 156:10 170:25 176:7 177:18 opens (1) 155:24 operate (4) 144:21,21,23 147:2 operated (1) 37:2 operates (1) 148:5 operating (4) 109:22 118:16 144:24 147:5 operational (1) 198:3 operators (10) 36:17 43:7,21 65:5 102:14 103:20 104:18 159:23 162:24 163:12 opinion (3) 201:16 202:23 203:23 opinions (1) 161:6 opportunity (16) 17:23 21:5 61:7 65:16 109:14 113:8 124:25 146:12 153:11,21 158:11,14 159:25 164:10 171:21 204:19 opposed (1) 85:5 opposition (1) 107:20 order (7) 16:17 34:8 69:22 97:8 131:16 170:13 177:5 organization (3) 36:12 95:7 104:17 organizations (2) 8:21 66:9 organizer (1) 36:10 organizing (1) 141:18 origin (1) 44:13 original (8) 53:8 96:9 97:15 122:10 124:6 163:7 168:4 169:17 Orwellian (1) 137:7 ostensibly (1) 83:18 out-sized (1) 36:21 outcome (3) 104:10 138:10 214:17 outcomes (1) 46:14 outer (1) 51:6 outlier (1) 100:8 outliers (1) 24:15 outpacing (1) 73:20 outreach (5) 24:14 27:2,24 187:25 188:6 outside (5) 5:9,15 152:25 166:20 167:12 over-collection (1) 209:24 overall (4) 37:23 147:12 172:16 198:13</p>
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**Taxi and Limousine Commission Meeting
January 5, 2017**

overflow (2) 65:12 164:3
overhead (1) 198:6
overly (1) 68:14
overreach (1) 84:25
overtime (4) 55:21 56:19 59:23
 145:10
overwhelming (3) 24:11 120:15
 135:15
overzealous (1) 163:19
owner (2) 120:2,9
owner/driver (1) 104:18
owners (5) 3:20 4:13,14 49:9
 104:16
ownership (2) 11:25 12:3

P

p.m (5) 23:14 50:7,7,8 213:10
pace (1) 161:4
packed (1) 94:5
PAGE (3) 3:2,4 4:2
paid (2) 113:24 160:20
pain (2) 204:2,3
painstaking (1) 36:15
paired (1) 90:15
paper (3) 6:23 124:12 181:3
paramount (1) 208:23
parents (1) 137:25
Park (3) 17:10 67:19,22
parked (1) 199:22
parking (2) 99:22 199:18
part (14) 29:12 31:2 32:20 35:18
 56:6 67:22 93:10 98:13 107:15
 112:23 122:9 144:7 149:25
 188:17
Partial (1) 7:25
participant (1) 63:2
participants (1) 128:19
participate (1) 153:11
participated (1) 62:11
particular (15) 32:9 41:13 64:7
 67:25 68:24 70:9 84:3,8 88:15
 94:6 142:6,8 147:17 176:11,12
particularly (9) 84:21 85:11 119:9
 120:12 140:25 141:9,12 160:9
 161:7
parties (2) 139:17 214:15
partnered (2) 40:16 41:7
partners (3) 40:4 147:4 189:8
partnership (3) 42:5 66:5 100:20
parts (2) 133:20 199:4
pass (6) 54:10 89:9 100:15 125:9
 190:5 194:17
passed (6) 18:25 20:11 24:8 53:9
 60:6 190:13
passenger (51) 15:25 16:5 21:20
 21:21,23 22:15,24 23:4,6,13,18
 24:4 25:20 32:8 37:16 49:21 50:9

50:17,21 52:13 56:12 69:4 70:3
 71:2,17 73:6 96:5,15,19,21 97:7
 97:21 98:11,17 129:9,17,23
 135:21 145:24 146:2 166:11
 168:11,12,14,15 172:14 176:15
 181:15 193:22 194:10 210:21
passenger-time (1) 24:18
passengers (31) 14:18 24:21 33:9
 43:22 50:20 74:6 82:8 86:8
 111:17 147:10 154:20 165:2
 166:18 167:9,11,20 168:9 169:25
 170:17 173:20 181:12 202:13
 203:3,5 204:5 205:6,13 206:2,5,7
 207:12
passing (2) 54:13 190:14
passion (1) 7:15
passionately (1) 138:23
Patel (1) 163:24
patience (2) 43:5 140:6
patrol (1) 186:11
patterns (2) 100:16 102:7
pay (4) 105:15 170:17,19 189:6
payment (2) 13:4 203:18
pedestrian (3) 32:8 157:9,17
pedestrians (7) 19:21 36:23 43:22
 62:7 95:9 165:3 166:19
Pedro (4) 4:15 201:21 202:2 204:9
penalties (3) 24:16 26:17 34:9
penalty (1) 113:24
pending (1) 20:14
people (47) 5:7 8:2,22 9:9 13:2,6
 15:7,14 16:11 28:17 37:25 47:3
 47:17 60:23 71:7 83:5 90:24
 92:20 108:13 132:24 134:24
 135:21 150:12 152:24 158:11
 174:14 175:6 179:18 180:9 182:3
 183:9 185:3 186:6 187:18 188:2
 189:8,9,11 190:9,18,20,22 191:2
 193:7 201:7 209:23 211:24
people's (2) 183:15 212:16
per-trip (1) 32:3
percent (16) 38:10,12 46:24,25
 59:18 60:23 96:18,18 103:23
 132:16 160:21 167:14,16 169:10
 198:6 202:10
percentage (3) 98:25 147:3 168:22
perfect (1) 14:10
perform (1) 203:21
performance (1) 102:11
performing (1) 113:4
period (9) 15:10 21:3 23:12 24:14
 26:18 51:18 110:16 153:3 202:17
periodic (1) 21:13
permanent (1) 91:13
permit (1) 13:6
permits (1) 13:3
permitted (1) 168:24

person (13) 15:10 17:24 48:7
 76:11 87:25 90:21 130:15 137:13
 185:23 186:2,10 188:24 189:3
person's (2) 90:14 130:14
personal (14) 24:20 61:23 78:3,6
 111:16 120:6 133:5 137:17 152:8
 161:8 199:14 205:18 206:14
 212:16
personally (4) 105:10 130:4 136:5
 136:12
personnel (1) 10:5
perspective (4) 77:9 104:4 157:10
 196:25
persuaded (1) 157:11
pertain (1) 139:22
Pertaining (1) 104:19
pertains (1) 145:2
pertinent (1) 63:10
Peter (2) 3:22 113:15
phenomenon (1) 45:21
phone (1) 57:20
phones (5) 102:23,25 131:14,16
 185:11
phrase (1) 120:13
physical (3) 40:12 46:10 186:13
pick (6) 50:20 82:8 121:21 134:24
 191:5 194:13
pick-up (30) 17:8,9,10 21:11,24
 25:24 26:16 28:6,9 37:6,9 41:21
 53:19,21 71:5 72:18,18 74:10
 79:8 80:10 110:24 114:9 119:10
 121:2 127:4 142:12 145:15
 147:25 173:18 176:23
pick-ups (7) 20:18,19 69:4 127:7
 132:16 133:23 135:16
picked (2) 111:14 209:19
picking (1) 93:7
picks (2) 23:6,13
pickups (1) 50:16
picture (4) 85:18 93:6,9,10
piece (3) 6:20,20 121:3
pieced (1) 148:3
pieces (1) 120:24
Pierina (3) 3:19 101:4,6
piloted (1) 169:5
pilots (1) 20:8
Pinnetti (1) 10:6
pinpoint (7) 78:23 79:5 84:14 85:6
 150:21 151:13,14
place (17) 6:6 9:2 22:25 28:10 29:7
 33:7 76:24 78:16 113:12 119:8
 139:6 149:4 157:22 185:25
 186:20 189:6 207:25
places (3) 136:20 186:15 190:7
placing (1) 118:10
plan (11) 3:19 34:25 44:20 45:6
 63:7 101:7,12 104:8 137:8,20

**Taxi and Limousine Commission Meeting
January 5, 2017**

<p>198:9 planners (1) 104:8 planning (3) 25:13 77:23 102:8 plans (4) 33:20 34:5 111:18 148:7 plates (2) 105:25 106:2 platform (2) 52:9 147:4 players (1) 118:14 playing (2) 50:25 193:8 please (15) 17:23 55:12 93:17 98:8 124:15 125:9 158:25 165:23 168:5,21 177:7 180:19 190:5,10 212:22 pleased (2) 95:11 111:6 plug (1) 75:8 pocket (1) 183:16 point (42) 35:15 44:13 53:23 56:6 56:24 58:7,8 67:23 75:14 81:8,8 81:24 83:8,20 84:13,17 97:23 106:24 107:4 108:17,22 116:13 121:21,22 124:17 144:13 145:8 153:7,24 158:20,22 161:12 167:14 173:2,25 174:3 184:17 187:25 191:18 193:14,14 197:19 point-to-point (1) 133:24 pointed (5) 35:17 86:12 133:18 135:14 160:18 points (11) 15:8 23:23 44:6 68:24 74:20 75:15 122:8 132:25 141:3 142:19 150:16 Polanco (6) 2:7 27:9,17 190:12,16 190:25 police (6) 10:18 93:17,24,24 94:2 177:3 policies (3) 47:23 48:12 66:24 policy (35) 15:12 19:4 31:9 35:6,7 35:8 65:17 74:2 76:18,22 81:13 95:5 97:24 101:8,9,10,21 106:20 131:7 132:12,23 138:24 146:11 146:24 149:17,22 150:7,17,22 151:11,21 171:4 184:24 185:18 204:17 policymakers (1) 104:7 pop (1) 118:18 popular (1) 40:20 population (2) 44:25 133:18 portable (1) 31:25 portal (3) 40:21 111:20 113:5 pose (3) 30:23 68:24 109:21 posed (3) 66:11,16 72:21 poses (1) 209:18 position (3) 10:11 160:8 167:4 positions (1) 77:4 positive (3) 71:13 72:12 115:9 possession (1) 136:19 possible (6) 73:2,18 83:3 100:19 143:4 207:6 possibly (1) 26:11</p>	<p>Post (2) 106:8 160:19 posted (2) 13:19 135:11 postponed (1) 124:8 postponement (1) 124:9 Potent (2) 117:3,9 potential (4) 26:21 33:13 70:6 99:21 potentially (2) 17:2 150:8 pounds (2) 169:5 175:5 power (2) 65:23 103:3 powerful (1) 37:17 powers (20) 3:23 117:6,7,12,18,20 120:3,7,17 121:7 122:4,24 123:3 123:6 124:11,15 125:8,11,14 207:9 practical (1) 95:24 practice (2) 6:25 141:20 practices (3) 65:22 73:12 154:15 precautionary (1) 170:4 precise (10) 26:7 66:22 67:5,6,8 67:16 72:18,19 102:6 137:21 predatory (1) 106:15 prediction (1) 100:13 predominate (1) 133:17 prefer (1) 149:2 preferable (1) 151:14 prepared (1) 189:16 Preparedness (1) 10:12 present (6) 2:3,12 9:12 117:23 154:2 158:8 presentation (4) 3:2 18:5,17 176:20 presented (3) 62:9 96:10 155:11 presently (1) 145:11 President (10) 49:6 109:6,10 111:25 146:10 159:18,20 192:5 202:3 204:10 presidential (1) 200:21 presiding (1) 7:5 press (2) 2:18 175:16 pretty (5) 141:8 143:2 179:22 212:23,24 prevent (8) 19:10 31:15 42:22 74:4 74:4 96:6 97:23 98:7 preventable (2) 95:22 118:8 prevented (1) 96:25 preventing (1) 31:11 prevention (6) 3:2,4 18:25 20:12 95:13 204:21 prevents (1) 81:22 previous (5) 19:4 83:11 84:13 164:17,20 previously (8) 40:10 49:11 52:22 70:15 117:3 119:12 194:15 203:12 prices (1) 209:10 primarily (2) 155:11 171:11</p>	<p>primary (1) 171:9 principle (5) 55:3 56:2 65:21 187:12,14 principles (5) 141:18,20 154:8,10 193:12 print (1) 168:7 prior (8) 34:5 71:12,12 74:14 99:3 158:3 172:4 209:15 priority (3) 41:15 44:20 170:7 privacy (58) 3:14 16:18 33:2,5,13 41:14 65:18,20 66:10,16,25 72:21,25 75:22 86:19 88:15 103:25 104:3 111:8,9 126:23 127:2,21 128:3,8,17 129:2 132:2 134:8 137:10,17 141:2,11 144:6 148:12 151:24 153:8,24 154:3,8 155:18 156:2,24 158:12,21,24 159:5 161:3,7 162:21 171:16 173:16 191:24 200:16 205:19 206:15,20 209:19 private (9) 41:10 62:2 78:4,6,16 85:2 154:23 156:8,16 prized (2) 9:24,25 proactive (1) 97:24 probably (8) 38:9 108:17 122:5 130:5 135:22 173:14 182:23 198:12 problem (15) 6:12 26:22 47:19 89:11 91:3,4 93:18,20 104:21,24 107:23 110:13 114:12 143:17 185:11 problems (2) 80:23 106:10 procedures (3) 65:2 66:24 83:20 proceed (2) 125:5 139:21 proceeds (1) 138:8 process (18) 9:24 14:8 28:20 38:8 48:15 91:18 144:7 148:22,24,25 150:10 160:25 161:4,16 162:4,6 163:9 194:13 processing (1) 103:3 produced (1) 26:18 producing (1) 62:24 product (3) 189:7,7,8 professionally (1) 8:24 Professor (3) 128:7,12,16 profit (3) 118:16 184:25,25 profits (1) 212:17 profound (1) 45:21 program (2) 12:16 132:15 programs (1) 120:11 prohibit (2) 64:14 109:17 prohibitive (3) 120:10,16 121:25 prohibits (1) 64:18 Project (1) 66:8 projection (1) 74:17 projects (3) 42:13 44:9,21 proliferation (1) 78:2</p>
--	---	---

**Taxi and Limousine Commission Meeting
January 5, 2017**

prominent (1) 32:11
promise (1) 39:19
promote (1) 141:5
promotes (1) 50:24
promoting (1) 196:15
promulgate (1) 52:17
proof (1) 123:20
properly (1) 123:13
property (1) 140:17
proposal (16) 14:10 15:24 23:21
 24:8 77:13 104:2 122:10 142:6
 147:14,17 154:4,6 155:3 156:4
 158:8 191:20
proposals (1) 154:25
propose (1) 181:16
proposed (58) 14:9 16:2 18:17,23
 21:19 22:7,12,22 24:13 30:14
 33:10,16 36:25 39:6 42:16 49:12
 60:15,17 63:17 64:25 69:5,21
 70:2 77:3,15 85:16 97:5,16 98:5
 99:2 109:12,16 113:9 118:4,23
 135:23 141:16 146:13 160:2
 164:11,20 165:21 167:5,18 168:5
 168:24 169:15,18,22 171:8,12,14
 197:22 200:15 201:2 204:20
 209:18 210:19
proposes (6) 51:13,21 115:14
 127:10 147:24 171:11
proposing (3) 21:15 22:16 187:14
proprietary (5) 79:15 81:25 82:4
 83:23 148:4
prosecute (3) 56:15,18,20
prosecution (6) 6:11 7:9,12,13,18
 8:17
prosecutors (1) 7:8
protect (10) 16:18 68:12 78:10
 95:15 104:3 120:8 141:5 149:2
 151:23 175:20
protected (2) 44:10 173:24
protecting (1) 60:4
protection (4) 74:19 171:3 203:19
 203:21
protections (3) 66:2,25 83:19
protects (2) 60:7 173:19
protocols (5) 6:6 29:7 33:6 34:21
 144:6
prove (1) 83:6
proved (2) 16:19 115:8
proven (2) 62:16 114:15
provide (28) 14:24 17:8 24:24
 25:10 26:25 27:20 43:25 48:16
 48:19 52:5 62:18 69:6,14 77:8
 102:14 103:18 119:18 121:8,12
 122:7,14 125:2 201:5 203:21
 205:9 207:16,18 209:13
provided (5) 16:13 18:15 21:18
 34:13 128:11

providers (2) 51:9 64:22
provides (4) 24:22 110:21 129:15
 203:24
providing (9) 27:12,25 31:24 37:12
 51:19 62:5,12 63:10 73:5
provisions (1) 139:21
proximity (1) 200:9
proxy (2) 98:15,16
public (62) 2:17 5:4 10:11 12:22
 13:11 24:22 25:5,15 29:19 33:12
 35:3,4,6 39:5,18 41:10,16,23
 46:23 69:7 78:4,20 81:13 86:20
 86:21 88:22 89:6,10 90:23 91:8
 91:15 101:18 102:22 104:9
 138:25 139:15 143:10 146:11,24
 149:22,23 150:7,12,17,22 151:11
 151:21 154:24 155:12 160:5
 161:2 175:21 189:2 191:21
 192:21 195:25 201:3,14 203:19
 204:17 212:19 214:7
publication (1) 13:9
publicly (6) 25:21 26:2,5 39:7
 148:8 156:12
publish (1) 29:18
published (7) 12:19 16:2 18:11
 40:8,25 130:17 161:5
publishing (1) 40:13
pulls (1) 210:3
punch (2) 185:4,7
punish (1) 202:6
purchase (2) 119:11,16
purchasing (1) 13:3
purpose (15) 50:13 66:20 67:18
 79:6,7 154:8,13,16,21 155:15
 160:12 168:4 171:6 188:4 191:19
purposes (5) 79:11 96:2 151:11
 163:7 171:12
pursue (1) 69:24
push (2) 17:20 211:5
push-back (1) 34:16
pushed (1) 74:8
pushing (2) 115:21 164:24
put (16) 6:6 22:25 33:7 69:14 89:3
 90:23 98:3 111:23 112:6 119:8
 166:25 168:16,17 176:19 177:4
 186:15
puts (1) 55:3
putting (2) 175:3 195:25
puzzle (1) 207:3

Q

quality (3) 44:16 46:22 166:12
Queens (1) 113:23
query (2) 58:6 179:6
question (23) 46:8 54:17 60:6 63:4
 63:14,20 64:19 79:2,19 82:16,18
 89:6,6 91:19 93:3 122:25 129:13

133:14 134:20 142:9,22 150:18
 206:19
questioning (1) 164:18
questions (9) 13:22 27:7 28:24
 29:21 140:8 150:25 154:14
 161:14 208:4
quick (1) 54:23
quickly (4) 57:23 91:21 205:20,23
quite (3) 147:5 162:25 199:8
quote (3) 99:5 161:18 194:3

R

R (1) 214:2
Ra (3) 3:7 38:19,25
race (1) 46:15
radio (1) 121:20
radios (1) 119:4
rail (1) 20:9
raise (3) 10:7 70:9 127:21
raised (10) 103:25 121:9 133:14
 137:5 143:13 150:16 153:9
 154:18 162:21 171:17
raising (1) 56:25
Rakesh (1) 163:24
ramifications (1) 45:25
ran (1) 6:7
Rana (1) 182:11
range (2) 47:19 146:20
rank (1) 10:19
rapid (1) 161:4
rapidly (1) 44:23
rare (1) 8:20
rate (5) 73:19 74:25 118:12 167:15
 167:17
rates (1) 210:25
rationale (1) 95:25
raw (1) 103:3
re-identification (3) 134:5 139:16
 143:16
re-identify (1) 72:2
reach (2) 56:5 135:12
reaches (1) 53:24
reaching (2) 19:13 188:19
reaction (2) 19:21 46:5
read (6) 5:21 117:25 128:6 134:11
 169:19 184:21
reading (4) 72:13 120:18 124:12
 154:5
real (4) 5:7 54:23 152:5,10
realities (1) 165:7
reality (1) 118:9
realize (1) 132:22
realizing (1) 40:7
reallocating (1) 84:7
really (23) 9:18 28:3 67:6 80:14,16
 86:10 104:20 121:15,24 150:19
 150:21 152:23 155:3 160:6

**Taxi and Limousine Commission Meeting
January 5, 2017**

<p>163:10 172:14,15 173:19 177:11 178:9 180:8 188:9 210:22 reason (11) 20:15 31:12 38:14 78:9 97:4 131:5 136:14 172:17 173:2 189:12 211:2 reasonable (5) 82:13 97:11 104:7 182:8 205:4 reasons (11) 32:13 38:16 45:8 67:25 96:12 105:6 126:8 139:13 150:7 155:16 203:12 rec (1) 64:9 recall (1) 164:19 receive (2) 24:15 25:3 received (2) 12:22 18:14 receives (1) 37:11 receiving (1) 80:10 recess (1) 116:19 reckless (1) 157:18 recognition (2) 33:15 162:3 recognize (4) 14:17 102:13 147:11 163:4 recognized (2) 36:2 109:19 recognizing (1) 98:9 recommend (1) 139:20 recommendation (1) 13:10 recommendations (4) 12:8,11 66:15 74:3 recommended (2) 6:8 12:4 reconsider (1) 98:8 reconsidered (1) 201:3 record (12) 12:19 16:11 18:11 21:13 24:5 29:10 41:14 45:3 116:22 117:25 203:2 214:12 recorded (1) 50:21 recording (2) 30:16 32:13 records (11) 14:22 25:15,19,22 28:19 40:9 44:3 45:6 64:10 127:14 130:15 Recruitment (1) 8:12 recurring (1) 60:21 red (4) 86:24 132:2 157:18 186:20 reduce (7) 26:23 37:21,23 69:22 72:12 77:12 78:24 reduced (3) 22:7 97:7 161:24 reducing (4) 37:19 96:8 161:17 169:16 reduction (2) 44:21 209:8 reelection (1) 84:18 refer (2) 52:23 84:12 reference (3) 10:16 49:12 52:6 referring (1) 192:16 reflective (1) 127:15 refuse (1) 8:10 regard (1) 171:13 regarding (6) 146:12 167:6 170:22 193:5 204:20 206:23 regardless (5) 46:18 96:14,23</p>	<p>98:10 122:19 regards (1) 164:17 Region (1) 45:17 Regional (4) 3:19 45:17 101:7 104:8 registered (1) 185:13 regularly (4) 139:14 154:14 200:6 207:15 regulated (2) 20:8 28:12 regulation (11) 52:11 68:11 79:17 80:8 82:3 122:15 202:15 203:11 203:15,19 204:8 regulations (14) 20:6 47:23 49:13 77:3 85:17 87:4,5 118:23 119:8 123:18 166:21 167:2,4 185:24 regulator (2) 82:13 195:12 regulators (1) 115:20 regulatory (3) 118:10 141:7 154:25 reiterate (1) 157:4 reiterated (1) 148:8 reiterating (1) 158:3 relate (1) 183:11 related (4) 83:23 120:23 192:14 214:14 relates (1) 149:23 relating (2) 52:7 149:22 relationship (1) 206:25 relationships (1) 196:22 relatively (2) 115:19 168:22 release (6) 39:17 41:16,21 74:14 143:6 148:7 released (8) 17:4,6 41:18 70:15 71:14 72:11 73:9 143:10 releases (2) 39:17 143:18 releasing (2) 70:22 148:13 relevance (1) 52:14 relevant (3) 25:11 151:9 205:9 reliable (1) 37:13 reluctant (1) 34:20 remain (2) 114:24 169:9 remaining (1) 23:11 remains (5) 29:8 46:11 55:3 97:6 153:3 remember (4) 19:3 20:16 58:2 179:24 remind (2) 12:24 99:16 renewal (1) 11:23 renowned (1) 36:19 rent (1) 186:18 repairs (1) 105:5 repeat (2) 112:4 132:7 replace (1) 97:20 replaced (1) 5:14 replacement (1) 13:8 replacing (1) 169:15 report (24) 5:6,17 26:16 36:19 37:3 37:7,9,15 44:13 54:11 55:18 57:5</p>	<p>58:11,20 69:2 91:5,11 92:2,19 126:5 127:4 130:17 133:16 148:2 reported (2) 2:22 214:10 reportedly (2) 95:19 169:7 reporters (1) 116:14 reporting (18) 1:21 31:10 32:17 33:11,17 38:5 43:16 51:16,20,21 52:4 66:12 119:9 126:19 139:23 147:16 170:23 197:25 reports (1) 110:8 represent (2) 103:22 104:16 representative (1) 183:10 representatives (1) 181:24 representing (3) 3:24 49:9 125:18 represents (1) 197:14 request (9) 40:11 71:12 77:17 102:22 104:6 124:23 133:24 148:21 201:13 requesters (3) 25:18 70:17,17 requesting (4) 22:18 61:10 80:11 103:19 requests (4) 25:17 40:15 78:17 85:21 require (7) 36:25 123:18 127:3 139:23 147:7,18 154:10 required (9) 13:14 43:24 52:5 64:2 79:17 82:3 88:5 103:5 186:22 requirement (8) 14:20 24:17 38:5 80:11 111:7 126:5 134:9 197:25 requirements (17) 30:16 31:10,20 32:14,17,19 33:17 51:17,20,22 66:12 87:15 119:10 147:16 152:17 170:23 206:13 requires (9) 13:18 26:2 43:3 44:12 47:19 54:11 88:3 96:15 186:13 requiring (8) 22:16 27:13 33:8 37:14 79:3,4 102:14 205:8 research (5) 19:15 95:5 109:20 170:18,19 researchers (1) 47:9 reset (3) 20:22 22:23 50:3 residents (2) 30:24 137:9 resolution (1) 203:24 resolve (1) 27:23 resolved (1) 88:12 resource (1) 188:20 resources (3) 28:12 40:14 84:7 respect (5) 59:7 77:16 125:3 139:19 206:20 respectfully (2) 77:16 135:24 respectively (2) 15:3 201:13 respond (3) 40:11 69:18 91:21 responded (1) 135:21 response (18) 21:16 29:22 48:25 70:16 81:16 100:25 135:14 137:4 163:25 166:2 182:12,15,17,19,22 208:12,15,17</p>
--	---	--

**Taxi and Limousine Commission Meeting
January 5, 2017**

<p>responsibilities (1) 89:10 responsibility (3) 56:7 194:18 196:13 responsible (5) 7:13 56:3 59:2 198:25 211:16 rest (6) 19:23 21:6,24 29:12 121:23 200:7 restarts (1) 22:23 restaurant (2) 210:4,7 restaurants (1) 133:6 rested (1) 170:18 restricted (1) 142:9 restrictions (3) 155:4 175:3,7 restrictive (1) 142:2 restructured (1) 6:21 rests (1) 171:10 result (7) 13:11 38:7 43:10 51:2 99:13 147:6 157:25 resulting (2) 62:13 114:17 results (4) 43:11 60:10 62:25 115:10 retired (1) 10:18 retroactive (1) 55:23 return (1) 51:7 revamped (1) 6:3 reveal (4) 71:16 74:6 75:18 130:15 revealed (1) 109:20 reveals (1) 130:11 revelation (1) 202:6 reverse (1) 71:16 revise (1) 85:16 revised (3) 23:20 160:2 167:6 revision (1) 18:24 revisions (2) 13:13,15 revoke (1) 91:2 revolve (1) 200:16 Reynolds (9) 3:21 109:2,3,4 112:3 112:9,13,19,22 Richard (2) 11:18,19 RICHMOND (1) 214:5 rid (1) 6:23 ride (5) 25:10 41:2 52:9 145:2 194:8 ride-sharing (1) 82:7 rider (6) 103:25 137:14 138:20 139:3 143:8 157:9 riders (16) 4:8 36:23 111:13 135:12,19 136:22 137:4,12 138:5 138:22 146:16 166:10,15 169:13 170:15,23 rides (8) 22:19 40:9 51:6 77:19 78:24 85:23 111:12 144:20 Ridge (1) 130:3 ridiculous (1) 176:2 riding (2) 38:2 168:19 right (27) 3:6 26:4 33:11 35:22 36:6,11,24 88:11 90:11,12,13</p>	<p>91:3 92:12 94:11 104:20 129:11 129:21 148:14 160:25 178:7 182:13 185:9 187:5,23 193:19 200:22 201:6 rightly (1) 41:10 rings (1) 120:5 risen (1) 145:12 risk (17) 19:20 24:10 46:18 48:13 72:15,21 75:24 79:9 84:15 109:22 110:7 129:7 134:5 152:4 168:16 169:16 205:18 risks (16) 27:3 30:23 66:2,11,16 68:24 69:22 74:4,22 75:17 78:19 109:13 134:7 148:12 206:14,21 risky (2) 26:23 115:22 road (20) 31:2 50:11 63:13 95:16 95:20 96:22 100:4 115:5 126:14 147:8 165:3,12,15,17 172:19,22 173:5,12,14 195:23 roads (2) 37:20 62:5 roadway (1) 102:9 roast (1) 5:20 robust (3) 72:23 148:25 150:10 Rocano (1) 182:14 Roest (1) 39:23 ROI (1) 62:25 Rojas (1) 208:14 role (1) 36:21 roll (1) 34:25 rolling (1) 153:25 roof (1) 32:12 room (9) 1:11 65:12 86:12,25 116:7 164:3 177:15 185:10 207:23 Rosario (12) 4:9 95:17 97:3 169:4 169:12 172:2,3,4,11 173:6,8 174:5 Rose (1) 30:9 Rosenthal (1) 30:10 roughly (1) 97:12 Round (7) 3:12,23 53:8 59:17 61:10 117:22,24 route (2) 157:14,24 routes (1) 44:10 RPA (1) 101:15 RPA's (1) 104:3 rubber (1) 114:7 Rudolph (1) 165:25 rule (95) 13:12,18 16:2 17:18 18:23 22:6,10,12 23:25 24:3,13 24:13 25:11,25 33:10 34:11 35:12 36:25 42:16 52:17 53:12 53:13,19 56:9 60:9 63:25 66:17 67:18 68:14 69:5,21 72:14 74:9 77:15,16 81:15 85:3,21 96:11,24 99:5,11 100:9,15,19 104:11,19 106:19,21 107:9,9,16 108:7,14</p>	<p>108:15,19,21 110:18 113:9 135:23 146:13 147:22 148:16 149:5,8 155:12 156:22 163:7 164:12,21,23 165:5,9,21 167:7 167:15,18 168:24 169:8,15,18 171:13,14 172:6 180:22 181:9 187:14 193:5 195:7,11 197:3 204:20 205:17 208:22 212:21 rule's (2) 84:22 107:2 ruled (1) 193:11 rulemaking (1) 191:19 rules (96) 3:2,4 12:13,18,23,24 13:5 14:4,14 15:20 18:10,18,25 19:3,4,6 20:12,17,20 21:7,15,19 22:22 23:21,24 24:8 30:14 33:24 34:8,16 35:4,21 37:13,18 39:6 43:16,20,24 49:24 50:14,15 51:3 53:8 56:21 64:17,25 70:2,5 85:17 95:13 96:3 97:22 98:4 101:16 109:12,15 110:13 113:19 114:3 116:3 118:4 123:24 124:3,6,19 124:21,24 126:2,22 128:20 132:6 137:24 138:8 139:20 149:21 158:22 160:3,12 162:15 163:16 164:22 168:4 169:22 185:24 191:24 192:18,19 194:25 195:2,8 197:22 200:16 201:2,6 205:24 210:18 rulings (1) 184:21 run (3) 5:10 8:21 63:24 run-in (1) 99:23 running (4) 6:11 115:6 134:12 157:17 rush (1) 184:15 Rutter (4) 4:6 159:15,16,17</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>S&E (1) 114:24 sad (1) 211:7 sadly (1) 139:8 safe (6) 16:20 24:12 31:8 138:4 146:15 167:23 safely (4) 8:13 20:2 59:16 165:14 safer (8) 36:13 37:20 48:16 95:9 113:11 166:17,23 170:19 safest (2) 114:25 115:3 safety (44) 3:10,11,22 5:12 10:11 43:21 44:20 45:14,18 46:22 49:7 52:9 86:21 87:16 88:22 89:10,16 97:24 98:19 100:19,21 101:18 114:5,10,19,23 116:2,8 129:3 141:6 160:6,23 162:9 166:12 170:21 171:2 174:23 191:21,21 192:21 196:25 208:23,25 212:19 Sami (3) 4:16 204:14,17 Sanchez (16) 3:19 4:10 101:4,5,6 174:9,10,11 176:17 177:23 178:4</p>
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**Taxi and Limousine Commission Meeting
January 5, 2017**

<p>178:8 179:9,15,17,22 Sandro (1) 208:11 satisfaction (1) 93:21 satisfy (1) 165:6 Savader (3) 4:11 180:13,14 savvy (1) 40:2 saying (14) 67:13 77:25 79:21 80:13 107:15 125:20 129:16 133:8 158:24 160:4 173:15 181:18 189:22 192:16 says (6) 88:19 90:17 93:16 194:10 194:10,11 scale (1) 91:11 scenario (2) 98:14 99:12 scene (1) 118:14 schedule (4) 15:15 176:12 183:23 184:19 schedules (4) 14:14 21:6,9 98:21 scheduling (1) 199:2 Schenkman (3) 3:22 113:15,16 scholarship (4) 65:21 141:9,17 142:8 school (5) 4:3 128:9 140:14,19 184:16 science (2) 40:23 41:8 Scott (3) 4:6 159:14,17 screen (3) 177:10,20,22 Sean (1) 208:16 search (3) 136:7 179:6 203:17 second (13) 66:21 67:4,4 79:12 83:22 92:24 93:11 120:22 141:25 147:23 165:14 184:2,14 seconds (4) 58:5 91:24 102:22 153:5 secret (4) 82:19,21 83:6 161:2 secrets (2) 82:12 152:4 section (1) 69:17 sector (6) 27:13 41:10 154:23,24 160:16 211:15 sectors (3) 21:10 100:17 165:6 secure (6) 29:4,8,13,17 73:21 74:16 secured (1) 62:5 securing (1) 29:6 security (11) 16:10 34:22 41:14 66:25 73:12,16 74:4,19 86:20 144:6 161:8 see (28) 7:20 10:8 26:5 30:5 57:23 58:10 65:3 72:5 73:18 74:18 97:25 105:10,17,25 107:6,11 121:25 131:9 145:9 155:21 156:25 165:5 173:14,17 178:9 189:14 200:23 210:19 seek (1) 203:16 seeking (3) 41:25 85:14 118:7 seen (2) 131:10 189:5 segment (4) 193:19 196:19,20,20</p>	<p>segments (1) 193:9 Segundo (1) 182:18 select (1) 44:9 send (7) 15:9 25:18 54:25 72:4 187:20 190:18 203:7 sends (1) 85:6 Senior (2) 18:21 42:13 sense (4) 37:23 110:13 112:14 212:20 sensitive (6) 67:2 68:23 75:15,23 82:4 174:23 sensitivity (1) 127:22 sent (2) 13:20 93:6 separate (2) 150:10 189:5 serious (11) 30:19 42:19,23 43:10 46:6,9 47:25 70:9 75:18 96:4 109:21 seriously (4) 29:15 43:5 74:17 169:14 seriousness (1) 34:11 serve (2) 91:15 104:9 served (1) 5:18 serves (1) 65:20 service (14) 12:17 19:12 20:6 32:6 44:9 90:23 114:13 120:24 166:12 197:24 199:9,12 203:15,22 serviced (1) 41:3 services (14) 1:21 41:23 82:7 102:3,3,4,5,21 106:6 113:4 120:20 128:21 138:7 198:14 session (1) 190:13 sessions (1) 7:6 set (18) 14:4 20:11 44:15 51:17 69:6 72:3,20 73:10 74:21 75:17 124:21 127:6 140:24 143:17 155:16 156:22 211:18 214:18 sets (5) 40:20 71:25 72:15 132:9 143:18 setting (2) 14:11 96:19 settled (1) 144:3 seven (4) 176:5,14,15 202:18 Shanker (7) 100:24 101:3 117:3,5 117:8,21,23 share (9) 14:18 34:21 52:9 77:2 84:25 112:25 137:14 153:8 170:16 shared (15) 22:19 25:9 70:4 73:14 77:18 83:13 85:23 115:17 126:8 126:12 128:12 137:9 139:24 155:6 205:13 shares (1) 41:3 sharing (4) 79:16 82:2 83:25 143:14 sharp (1) 96:16 she'd (3) 6:3,6 8:8 she'll (2) 10:14 11:3 sheet (1) 197:12</p>	<p>Sherry (7) 5:21,24 6:10 7:18 8:3,20 9:19 Sherry's (3) 7:15 9:6,7 shift (5) 37:13,18 45:23 79:3 211:21 shoot (1) 124:13 shops (1) 118:18 short (4) 15:7 89:8 116:19 154:10 short-term (1) 19:18 shortchanged (1) 182:4 shortened (1) 173:11 shorter (2) 21:3 173:3 shortly (1) 32:18 shoulders (1) 189:20 show (2) 20:2 63:11 showed (1) 199:23 showing (1) 209:14 shows (5) 19:15 23:3 157:14 170:18,19 shrugging (1) 189:19 shut (1) 185:17 sic (1) 204:9 side (4) 29:11 89:15 120:25 131:24 sides (1) 28:6 sidewalks (1) 37:20 signals (1) 19:22 significant (8) 66:10 77:14 123:10 149:13 162:23 205:18 206:14,21 significantly (3) 25:7 73:23 209:11 similar (2) 27:14 70:15 simple (10) 23:4 26:9 52:18 54:11 58:10 62:17 119:19 167:17 192:12 193:4 simpler (1) 55:8 simply (7) 52:2 56:5 106:14 111:13 119:7,20 138:20 sincerely (1) 165:21 single (6) 48:7 87:7 127:5 133:21 185:15 186:10 single-family (2) 130:6,8 sir (1) 93:4 sit (1) 176:25 sitting (1) 212:25 situation (6) 27:24 73:4 78:7 96:23 100:8 175:21 six (4) 40:8 62:23 102:20 178:24 size (2) 12:25 33:18 skill (1) 43:6 skip (1) 128:2 sky (1) 54:3 sleep (5) 19:24 45:23 47:17 114:16 115:22 sleepy (1) 46:17 slide (1) 23:3 slight (1) 12:14 slightly (1) 77:8 slippery (1) 155:24</p>
--	--	--

**Taxi and Limousine Commission Meeting
January 5, 2017**

<p>slope (1) 155:24 slow (1) 105:4 slower (1) 19:21 small (9) 110:11 118:20 119:20,25 120:2,9 168:22 175:14 192:3 smaller (5) 33:25 102:18 162:24 178:5 198:18 smallest (1) 197:14 smart (2) 102:23,25 Smith (15) 3:14 65:14,15,17 67:13 68:4,20 69:16,20 71:10,22 72:9 73:7 75:14 76:12 smooth (1) 28:20 Snapchat (2) 186:8,8 Snowden (1) 200:20 social (2) 15:23 129:15 societal (2) 47:8,20 society (3) 47:15 65:24 128:9 software (12) 54:7 58:14 59:13,14 103:5 119:5,18 120:11,20 121:16 121:23 122:21 solely (1) 73:8 solicitation (1) 32:6 solution (3) 6:14 64:2 141:16 solutions (9) 61:21 62:14,18 162:10,17,19,22 163:13,17 solver (1) 6:12 somebody (6) 5:18 87:17,20 88:10 91:7 177:5 somebody's (1) 177:6 somewhat (1) 171:5 soon (4) 5:22 9:16 16:22 93:16 sorely (1) 10:14 sorry (11) 37:7 89:24 102:3 105:16 112:3 121:6 123:5 138:15 181:17 184:3 194:20 sort (33) 63:21 68:10,13 72:13 73:19 74:12,23 99:18 100:13 120:20,21 122:9,14 124:18,20 141:21 151:6,8 153:25 154:4,6 155:2,9,19,24 156:3,22,22 157:12 158:5,13 159:7 193:18 sought (1) 19:6 sound (1) 8:17 sounds (2) 13:25 188:10 sources (1) 45:5 South (1) 89:14 space (1) 106:16 spaces (1) 199:19 speak (11) 42:15 65:16 77:7 108:14 113:18 140:23 164:10 166:10 171:22 180:17 192:5 speaker (40) 36:5 38:19 42:7 45:12 48:23 49:4 53:5 61:13 65:10,13 83:11 85:25 94:17,24 100:24 101:4 104:13 108:18 109:2 113:15 117:2 125:15</p>	<p>140:11 146:6 153:16 159:14 163:24 164:2,6 165:25 166:5 171:25 174:9 180:13 182:10,13 191:11 201:21 204:14 210:13 speakers (10) 3:4 4:2 15:4 18:7 60:4 132:3 142:10 152:23 158:3 164:17 speaking (4) 104:23 140:17 155:18 156:23 speaks (2) 182:6 203:18 Special (1) 42:13 specialized (1) 103:4 specific (9) 24:25 79:13 80:2 85:5 85:14 163:14,15,17 207:25 specifically (3) 126:4 161:17 162:12 specification (2) 154:9,22 speech (1) 69:11 speeding (1) 115:24 speeds (1) 44:5 spend (8) 94:8 96:17 100:3 147:9 163:11 165:11 167:10 200:6 spends (2) 97:12 206:2 spent (3) 49:18 167:8 198:15 spirit (1) 109:16 spite (1) 162:2 split (1) 176:14 spoke (2) 60:4 87:14 spoken (3) 193:4 205:19 206:22 spokesperson (1) 86:4 spot-checking (1) 142:16 spouse (1) 136:4 spread (1) 13:4 ss (1) 214:4 Stadium (1) 194:14 staff (10) 2:16 7:7,15 13:10 20:5 114:24 123:11 148:19 166:25 207:2 stake (1) 167:24 stakeholder (2) 23:22 128:25 stakeholders (4) 10:23 31:5 32:23 162:14 stalk (1) 173:23 stand (7) 5:20 59:17 160:7 171:17 172:6 174:16 200:24 standard (6) 96:7 97:5,20 101:24 156:23 211:18 standards (3) 11:21 68:9 157:20 standing (2) 102:24 191:16 standout (1) 40:7 stands (1) 96:10 Stanford (1) 128:8 staple (1) 40:21 start (8) 5:4 21:2 22:2 29:25 31:19 79:25 124:19 125:19 start-ups (1) 152:18 started (2) 139:9 209:4</p>	<p>starting (2) 81:8 122:10 starts (1) 130:8 state (9) 47:22 115:14 132:19 137:7 141:24 161:23 202:21 214:4,8 stated (9) 16:2 52:10 66:19 124:4 163:7 164:22 170:6 185:2 194:16 statement (8) 53:15 79:6 117:4 155:14 160:12 168:3 171:6 188:3 statements (1) 151:15 Staten (1) 130:3 states (4) 47:5 51:14 79:7 115:12 statistics (1) 202:8 status (1) 46:17 stay (2) 27:4 172:21 stayed (1) 213:8 staying (1) 191:16 steel (1) 169:5 stem (1) 111:9 STENO-KATH (1) 1:21 Stenokath@verizon.net (1) 1:24 step (3) 19:13 47:24 196:18 stepchild (1) 177:16 steps (4) 66:18 71:11,13 72:10 Steve (1) 117:8 Steven (6) 4:11 100:24 117:2,21 180:13,15 stick (1) 17:22 sticker (2) 5:14,16 stickers (2) 5:8,11 stood (1) 113:18 stop (7) 57:21 83:6 84:9 118:8 173:19 186:20 196:18 stopped (1) 54:22 store (3) 154:11 174:16 176:7 story (2) 54:4 92:16 straight (1) 174:25 strategy (1) 19:10 street (16) 1:10 14:18 32:4 44:7 97:24 102:11 108:5 134:25 136:3 183:13,16 186:7 188:8 189:9 196:16 203:9 streets (14) 19:9 36:14 37:20,24 38:11 43:3 45:7 89:2 95:10 113:11,20,23 146:15 183:9 strengthen (1) 76:20 stress (3) 192:13,19 204:2 stretched (1) 102:25 stricter (1) 181:10 strike (1) 98:18 strong (2) 83:18 208:22 strongest (1) 40:4 strongly (8) 35:11 36:24 42:22 45:8 108:10 166:15 169:13 209:2 struck (2) 147:13 169:4 structure (1) 22:25 struggle (2) 98:14 197:17</p>
--	--	--

**Taxi and Limousine Commission Meeting
January 5, 2017**

struggling (1) 162:25
stuck (1) 9:17
studies (8) 20:2 43:8 71:14,22,25
 72:4 75:6 168:9
study (2) 40:25 73:20
stuff (5) 86:10 87:8 104:23 106:24
 151:17
stupid (2) 185:3 186:4
subdivisions (1) 7:10
subject (6) 60:18 70:12 85:21
 108:11 144:5 153:13
submission (3) 26:8 28:19 162:6
submit (1) 28:17
submitted (8) 14:22 29:10 49:11
 52:23 66:4 77:6 191:23 205:21
submitting (1) 198:21
subpoena (3) 88:4,4 90:9
subpoenaed (1) 90:5
subsequent (1) 13:17
substantially (2) 72:22 200:17
successful (1) 7:21
suffering (1) 197:23
sufficient (3) 28:22 85:4 124:3
suggest (3) 40:25 97:4 160:19
suggested (1) 99:7
suggesting (2) 57:25 63:25
suggests (1) 47:3
suit (2) 89:25 93:12
suitable (1) 96:8
summarize (2) 205:20,23
summary (1) 18:17
summer (3) 97:16 113:22 193:5
summons (3) 22:25 59:8 207:14
summonses (8) 7:14 34:6 51:23
 52:3 59:21 188:5 192:25 198:23
summonsing (1) 6:18
Sunset (3) 17:10 67:19,22
support (29) 26:13 28:15,16 30:13
 32:14 33:19 35:11 42:22 65:22
 77:4,11 100:20 107:8 113:8,18
 114:2 125:22 126:4 132:18
 142:14 155:22 164:11 166:20
 167:4 170:15 204:7,18 205:2
 208:22
supporters (1) 168:17
supporting (2) 107:9 158:22
supports (5) 36:24 101:15 125:20
 160:5 166:15
supposed (2) 157:5 175:10
surcharge (1) 32:4
surcharges (1) 200:12
surcharging (1) 192:24
sure (36) 6:7 8:22 11:4 21:4 28:17
 28:21 29:7,9 30:24 33:9 53:14
 54:9 64:21 68:2 69:19 74:15
 80:22 81:17,21 91:22 94:18
 101:2 105:13 111:24 120:3,7,14

122:12 123:2,12 136:25 157:22
 182:7 186:5 188:16 212:24
surely (1) 15:13
surge (1) 103:9
surprising (1) 34:17
surrounding (2) 101:13 128:23
surveillance (1) 138:3
survive (1) 196:17
sustained (1) 41:13
sustains (1) 50:24
sympathetic (1) 99:15
system (19) 6:7 16:19 32:21 34:25
 54:12,24,25 55:17 57:6,8 58:5
 62:21 64:25 86:14 88:23 175:17
 177:10 198:15 199:9
systematic (1) 36:20
systematically (1) 137:16
systems (2) 60:12 175:12

T

T (3) 89:21 214:2,2
table (9) 3:12,23 25:23 53:8 59:17
 61:10 117:22,25 189:15
tackle (1) 192:20
tag (1) 87:11
tailor (1) 66:18
tailoring (1) 78:17
take (40) 7:23 17:23 26:11 29:14
 39:21 50:6 54:18 57:14,24 58:8
 66:17 67:23 74:17 84:4,6 91:17
 97:8 99:9 100:8,12 105:24 116:8
 116:16 121:18 122:6 137:22
 139:19 140:7 150:13 153:5
 156:17 170:3 175:2 184:13 187:5
 189:25 195:15 196:18 200:6
 211:21
taken (15) 35:18,24 40:9 71:11
 72:10 73:13 83:9,21 89:13 91:14
 99:11 116:20 128:18 144:20
 183:15
takes (6) 7:17,18 40:14 50:3
 149:14 168:25
talk (8) 39:8 61:7 77:23 153:22
 157:7 174:20 192:9 193:18
talked (7) 74:13 83:17 142:10
 149:10 190:9 191:24 209:24
talking (11) 55:7 67:22 87:15
 104:21 106:19 123:9 174:21
 177:21 187:19 193:13 212:25
talks (5) 180:3,4,4 191:20 192:16
tallying (1) 167:7
tank (1) 101:8
tantamount (1) 82:11
target (4) 24:9 162:17 164:24
 212:13
targeted (1) 206:8
task (1) 119:19

tasked (1) 114:22
tasks (1) 43:2
taxes (1) 203:18
taxi (71) 1:4 3:11,20 4:12,15,18 5:5
 9:20 16:8,13 17:3,10,15 19:5,11
 25:6 27:11 29:11 30:13 40:3
 42:11 43:7,18 44:3,23 45:5 48:2
 49:7 51:4 59:7,9 61:25 67:10
 71:5 95:3,19 102:16 104:5,16
 105:25 110:5,7,15 111:3 113:4
 114:25 115:16 132:6,13,14,18
 133:16 134:2 139:10 151:16
 166:13 170:8 183:12,12,19
 185:12 186:24 201:25 202:3,6,19
 203:7,13,23 210:16 211:25
taxicabs (2) 144:22,24
taxis (25) 15:2,2 27:11 32:11,16
 33:8 37:11 40:10 101:25 102:16
 114:14,23 115:5 130:23 131:2,4
 131:7,11 132:10,16,20 133:15
 166:16 167:15 202:25
TC (1) 105:25
teaching (1) 140:13
team (2) 15:12 207:15
tear (1) 99:25
tech (5) 39:25 66:9 85:7,10,18
tech-friendly (1) 84:23
Tech:NYC (3) 3:15 76:18,19
technical (2) 143:2 162:23
technological (4) 28:11 62:13,17
 64:2
technologies (4) 65:23 73:22
 97:18 103:2
technology (44) 4:5 6:23 24:6
 28:15 29:3 33:19,23 39:13 54:2,3
 55:7 62:22 63:3,11,17 64:15,21
 64:23 66:7 76:19,21,25 77:10
 78:2 82:5 83:25 84:19,23,24
 100:12 109:24 119:12,15,16
 120:24 121:3 123:9,20 127:10
 128:15 140:16 148:5 153:20
 169:19
technology-based (1) 61:20
teeth (1) 177:19
Telecommunications (1) 39:13
tell (16) 29:4 57:18 58:13 59:16
 89:12 91:6 93:20 121:11,19
 175:18 186:16 191:3 193:24
 194:18 195:3,21
telling (1) 211:8
tells (3) 176:6 210:3,3
tempted (2) 161:22 162:8
ten (5) 38:12 153:5 176:7 178:13
 178:23
tend (1) 156:3
tends (1) 153:24
tens (1) 59:15

**Taxi and Limousine Commission Meeting
January 5, 2017**

term (1) 19:23
terminate (3) 38:16 90:17 92:18
terminates (1) 206:6
terminating (1) 90:19
terms (9) 27:18,24 71:14 142:21
143:2,16 186:11 195:8,13
terrible (1) 93:25
testified (4) 42:21 153:10 186:10
210:24
testify (6) 42:4 77:5 109:14 113:8
117:21 124:18
testifying (1) 30:12
testimony (10) 30:8,11 38:23
77:21 109:5 117:24 125:6 128:2
160:13 199:14
tests (1) 142:2
Texas (1) 87:6
text (1) 109:18
thanks (3) 114:24 115:18 153:13
thing (18) 16:6 27:18 57:3 58:12
64:12 77:24 112:15 118:5 131:17
138:12,18 153:25 156:3 172:7
177:7 179:10 185:24 187:23
things (15) 5:6,21 15:21 27:9
29:18 31:12 60:2 77:22 99:4
120:17 142:23 155:21 157:12,18
183:8
think (97) 9:19 28:8 29:15 32:13
34:21 35:23 53:14 64:18,20
66:15 71:13 72:10 73:25 75:23
76:6 77:21 81:5 82:17,18,22 83:8
83:11,16 84:14 85:6 87:10 88:17
94:13 98:13 100:2 101:8 107:22
108:6,14,22 112:19 118:19
120:19,23 121:13,24 122:8,11
129:12,13,25 130:13,19 131:2,5
132:2,4 134:6 135:11,22 136:24
140:3 141:8,13 142:19 143:3,14
144:13 147:12,21 148:10,15,23
149:4 150:3,15,15,18,23 151:6
151:11,18 152:3,5,10 166:3
172:7,17 175:24 181:24 192:4,10
192:12 193:3 196:24 197:4
200:19 210:12 211:15 212:2,9
213:5
third (4) 66:23 84:17 139:17 153:7
third-party (1) 143:14
thought (4) 80:21 93:5 174:3
203:20
thoughtful (1) 34:24
thoughts (1) 76:8
thousand (4) 7:14 115:11 179:11
196:4
thousands (5) 6:19 48:6 59:15,15
169:5
threat (2) 164:25 209:18
three (14) 15:5,7 25:22 41:6 60:23

66:14,17 74:3 76:4 126:20
178:14 186:25 188:24 198:9
three-minute (1) 17:22
thriving (1) 127:15
throwing (1) 87:8
thrust (1) 112:20
thumb (2) 167:15 177:11
THURSDAY (1) 1:9
ticket (2) 186:21 187:21
tickets (2) 99:22 192:25
tied (2) 106:6 143:7
ties (1) 144:16
tight (1) 100:18
timely (1) 207:16
times (14) 6:22 21:2 41:5 75:2 96:5
96:16 105:6,8 133:15 147:25
148:9 153:21 187:10 203:5
tired (1) 192:13
TL (1) 43:17
TLC's (19) 13:19 36:25 42:22
43:16 68:25 69:6 77:11 97:22
101:15 104:2 141:4 146:19 155:3
160:12 161:18 163:4 167:18
177:15 204:19
TLC-licensed (3) 138:7 145:19,19
TNC (1) 103:24
TNCs (1) 115:18
today (68) 7:9,12 9:5,8,12 11:21
15:4 17:8 18:22 20:16 31:13
35:12 38:8 42:4,15 64:17 65:16
77:2,6,11 84:11 90:3 92:17 93:12
94:8 104:4 105:13 109:14,15
113:8 124:23 126:2 127:9 129:16
129:20 134:17 140:17,21 141:14
146:12 148:9 153:10,13 155:2
160:3,7 162:22 163:2 166:10
167:5 169:8,15,22 171:10,14,17
171:22 178:13 180:9 183:11
186:11 190:13,15 192:15 200:13
200:17 201:6 206:17
today's (3) 108:12 122:15,16
told (5) 76:14 117:3 128:21 135:19
138:2
toll (1) 131:21
tomorrow (1) 178:14
tool (1) 37:17
top (1) 41:14
total (5) 11:21 49:17 96:22 97:14
97:19
totaling (1) 103:9
totally (2) 49:22 99:14
touch (2) 173:16 211:13
tough (1) 115:16
tourism (1) 45:2
towns (1) 186:14
TPEP (9) 86:15 88:23 89:3 92:5,10
122:19 133:10,12 175:11

track (10) 29:17 41:13 43:18 54:25
58:21 79:10 89:4 111:10 175:10
178:22
tracked (1) 33:9
tracker (1) 186:16
tracking (5) 31:6 88:3,22 89:7
122:20
trade (5) 82:12,19,21 83:5 152:4
traditional (2) 102:2,4
traffic (19) 3:10 19:20,22 22:4
42:20 43:25 44:4,5,18 45:18
49:19 100:2 105:12 106:4,7,10
108:2 112:24 126:14
training (3) 7:6,8 34:12
transcript (2) 1:2 214:12
transfer (1) 206:23
transit (3) 29:12 103:16 112:23
transmitted (1) 123:13
transparency (2) 41:24 128:17
transparent (4) 39:10 130:17,20
207:6
transport (1) 205:5
transportation (19) 3:9,16,18 20:7
37:2,8 42:9,14 45:13 71:23 86:5
95:6 101:9,21 106:12 149:23,24
159:19 170:2
transporting (8) 167:8,19 168:9
169:24 206:2,5 207:12 210:21
travel (4) 102:6 199:6,12 202:25
traveled (2) 38:11 89:5
treasured (1) 159:9
tremendous (3) 27:21 137:4 198:3
triangle (2) 175:15 178:5
tried (2) 53:11 132:3
trigger (1) 205:18
trip (83) 14:21 16:13 17:3,5 20:24
21:13,18 22:2,12 23:8,15,16,17
24:21,23 25:15,17,25 28:5,18
29:10 30:16 31:6,10 32:13 41:16
41:19 43:16 44:3,14 45:6 49:17
51:16 53:21 55:17 56:10,12,13
56:19 57:13 58:3,4,7 64:9,10
66:20 67:21 69:15,25 71:9 82:9
87:15,16 88:18 101:20 110:21
112:14 126:10,11,15,16,17 127:5
127:14 130:7,15 133:25 134:2
136:5 139:24 140:5 143:7 162:5
170:22 171:2,8 177:25 178:12
193:16 198:21 205:8,13 206:6
trip's (1) 37:3
trips (36) 22:18,20 23:5 30:20 32:3
38:4,9 44:13 51:7 53:24 66:21
79:8 82:11 86:17 126:6,7,21
127:16 128:23 133:17,19,22
134:6 136:12,13,15,19 137:22
144:10 145:3 149:24 157:10
172:22,23 177:25 206:24

**Taxi and Limousine Commission Meeting
January 5, 2017**

troubling (1) 199:2
Troublingly (1) 69:25
truck (4) 20:7 110:5 114:7 186:18
truckers (1) 62:8
true (14) 5:10 78:12 82:5 85:11
 91:13 92:15,15,18 127:18 142:18
 145:7 151:20 194:8 214:12
truly (2) 96:11 175:20
try (5) 60:12 84:7 122:13,14 160:7
trying (12) 58:4 65:3 80:3 93:22
 129:20 152:11 166:25 169:19
 180:6 192:7,20,21
tsunami (1) 189:13
turn (5) 37:18 99:24 149:3 175:15
 178:6
turned (1) 148:18
tweets (2) 87:9 135:13
twelve (1) 53:24
two (28) 15:21 19:15 23:5 26:3
 27:9 28:10 36:12 38:10 60:2,10
 62:8,12 63:9,14 91:23 120:17
 122:4 126:25 127:23 137:18
 141:18 142:23 172:5 187:18
 189:4 194:12 198:15 206:13
two-way (2) 119:3 121:20
type (5) 75:5 83:7 136:7 158:6
 177:21
types (1) 19:16
typically (1) 198:9

U

U-Haul (1) 186:18
U.S (2) 20:8 137:24
Uber (40) 3:25 4:7,9,11,17 34:19
 86:7,7,25 87:23 88:4,5,19,24
 89:7,13,18 90:5,17 92:15,21 93:5
 93:16,19,22,22 102:5 103:17
 106:15 108:3 111:4 125:19,20
 137:4 178:21,23,25 180:4,16,21
Uber's (1) 154:19
ultimate (1) 76:23
ultimately (4) 41:19 113:24 115:22
 154:16
unanimous (1) 14:2
unanimously (1) 11:15
uncertainty (1) 126:13
unclear (2) 70:2 205:14
uncomfortable (1) 8:24
under-count (1) 167:9
underestimate (3) 47:10 152:3,14
underestimating (1) 60:22
underlying (1) 78:12
understand (33) 24:3 26:10 27:10
 27:25 31:7 34:9 44:22 57:4 59:12
 62:4 69:20 95:24 96:12 107:22
 121:24 131:20 139:25 142:13
 143:4 148:4,6,22 150:6 153:23

155:8 159:6 164:16 165:7 166:23
 170:9 172:25 190:8 192:18
understanding (6) 22:20 102:10
 111:5 120:10 121:15 190:6
understands (3) 112:2 122:12
 160:4
understood (1) 176:18
undertaken (1) 163:8
unease (1) 41:11
unerringly (1) 9:24
unexpected (1) 22:4
unfortunately (2) 59:21 193:9
UNIDENTIFIED (1) 164:2
uniform (1) 101:23
unique (2) 85:14 203:24
unit (6) 6:11 7:9,12,16 8:17 10:22
United (7) 4:8 47:5 166:11,15
 169:13 170:15,23
university (4) 4:3 10:13 140:14,19
unknown (1) 139:13
unlevel (1) 50:24
unlimited (1) 160:8
unnecessarily (1) 75:25
unpleasant (1) 91:9
unrelated (1) 126:3
unreliable (1) 126:16
unsafe (2) 170:12,13
unsupported (1) 115:19
updated (2) 43:16 177:10
uphold (1) 157:20
Upper (1) 89:14
Upstate (1) 168:17
urban (2) 101:8 169:6
urge (5) 85:15 97:17 128:6 163:11
 170:3
urgently (1) 169:14
urges (2) 45:9 169:13
urging (1) 136:14
use (20) 3:24 26:17 45:4,7 60:11
 102:8 110:24 123:23 125:19
 138:6 147:4 150:7 154:9,17,22
 155:4,25 169:18 188:20 192:23
useful (1) 116:15
users (3) 40:19 95:16 104:3
users' (2) 78:10 212:12
uses (1) 200:12
utilize (2) 63:3 123:19
utilizing (1) 50:19

V

valid (2) 78:15,21
valuable (2) 23:21 40:18
value (1) 128:18
values (1) 47:13
varied (1) 33:15
variety (2) 44:8 83:14
vary (1) 67:21

vast (1) 110:8
vastly (2) 67:21 78:2
vehicle (46) 5:15 13:7,17 16:24
 21:22 24:6,23 25:21 30:25 32:9
 36:17 38:10 47:5 49:21 52:7,13
 66:12 70:23,25 73:5 75:12 85:12
 87:21,22 92:14 101:20,23 103:24
 109:23 111:17,24 112:7 118:6,9
 118:11 121:4 155:7 160:16,17
 166:14,20 167:12 168:11,13
 194:9 206:7
vehicles (24) 13:3,8 22:21 30:17
 31:22 37:2,15 38:3 41:4 61:22
 88:25 89:7 102:7 103:9,10 106:3
 108:4 110:6 144:15 145:20
 166:17 167:16,21 178:20
vendors (1) 119:17
venture (1) 7:22
Verifone (1) 177:23
verify (1) 81:12
versus (3) 163:18 173:10 195:13
veteran (1) 137:18
Vice (3) 146:10 159:18,20
view (4) 69:7 71:9 150:4 161:12
vigilance (1) 43:4
violation (2) 22:5 111:8
violations (1) 99:23
Virginia (1) 114:8
virtually (1) 105:8
vision (20) 19:4,13 31:3 39:24
 42:18 44:11 62:9 63:6,17 101:17
 105:10,18,19 107:5,5 118:3
 125:21 157:16 170:2,6
visit (3) 138:10,16 210:5
visitors (1) 138:9
visits (1) 7:16
visual (1) 42:25
vital (2) 10:21 154:24
voice (2) 166:11 201:16
voiced (1) 10:24
volumes (1) 84:3
voluntarily (1) 21:18
volunteering (1) 60:12
vote (5) 12:12 60:2 132:5 133:12
 201:10
voted (2) 127:3 133:10
vulnerable (6) 95:16 139:7,11,16
 212:10,14

W

wage (1) 209:8
wait (1) 41:5
waiting (1) 21:25
walking (3) 38:2 105:24 134:4
want (64) 8:19 9:5 10:5 15:21
 16:10 20:25 31:13 35:15 50:18
 57:2,4,6 59:11 63:19 77:7 84:17

**Taxi and Limousine Commission Meeting
January 5, 2017**

<p>87:2,3,5,11 90:22 98:2 99:4,9 100:7 108:13 111:24 118:20 121:12,24 122:2,12 127:13 133:13 135:15 136:6,20,25 139:12 146:15 150:8 151:22 152:15,21 155:19 156:20 158:19 159:24 163:3 165:16 173:21,24 181:22 182:3 187:23 188:15 191:18 197:19 202:5 205:20 206:16 207:7 210:4 211:13 wanted (3) 137:13 179:23 194:2 wants (5) 39:20 118:8 119:14 126:17 135:20 warned (1) 127:10 warnings (2) 34:5 51:24 wars (1) 137:18 Washington (1) 65:19 wasn't (2) 6:9 89:15 watched (1) 164:14 watching (1) 9:10 way (40) 3:6 17:3,5 31:6 36:6,11 36:24 57:14 60:3,15,16,17 68:7 80:19 81:9 88:2,19 95:25 96:11 106:2,2,2 110:19 125:4 142:16 147:3,6 154:11 160:22,25 177:8 179:3 182:2 200:24 205:6 206:10 207:4,18,21 214:16 ways (7) 18:2 34:23,25 83:14 113:11 140:3 157:21 Waze (4) 57:16,19,23 58:6 we'll (15) 8:16 9:15 17:20 18:6,8 18:16 76:4 90:9 108:17 116:16 122:5 136:25 175:16 179:5,6 we're (61) 5:3 15:25 18:3 20:16 28:14 29:24,25 33:14 34:4 56:23 58:2,4 67:13 72:3 73:4,24 80:3 80:10,13 81:17 90:19 94:16 100:13 107:4,14 112:8 121:10 123:8 127:24 129:9,20,22 134:8 145:23 146:14 147:15 148:10 150:19 153:2 156:10 160:21 167:7 176:9 177:14,15 180:2 181:4,4 185:13,14,17 186:9,25 187:14 189:25 190:20 193:13 198:4 201:10 205:16 211:8 we've (23) 5:10 14:7 22:7 28:10 35:24 63:8 77:21 90:18 94:14 98:18 99:2 101:11 106:15 108:14 145:15 146:18 157:15 160:13 161:9 168:2 200:19,19 213:6 weakened (1) 98:2 wear (1) 99:24 website (3) 13:19 16:4 136:17 week (17) 5:12 14:6 40:23 52:19 66:4 99:8 104:25 107:17 108:16 110:17 126:21 175:25 176:5 183:20 194:20 196:3 201:10</p>	<p>week's (1) 196:6 weekly (5) 20:18 22:9 27:4 31:9 51:25 weeks (2) 6:22 15:17 welcome (8) 5:13 10:6 11:7 15:15 61:6 153:11 171:20 204:18 well-being (1) 211:17 well-documented (1) 160:10 well-established (2) 68:10 141:8 well-focused (1) 7:6 well-managed (1) 65:25 went (6) 93:11 98:17 106:9 178:24 188:25 199:20 weren't (1) 134:16 west (1) 125:4 wheel (11) 43:15 46:3 49:18 97:10 97:14 110:5 114:17 167:10 169:10,11,24 wheelchair-accessible (1) 31:22 whereabouts (1) 111:10 WHEREOF (1) 214:18 white (6) 86:11,13,24 133:8,11 177:14 who've (1) 10:23 wholeheartedly (1) 125:20 wholesale (2) 140:4 206:23 wide-ranging (1) 207:8 widely (1) 109:19 wife (1) 168:19 willingness (1) 85:10 Wilson (51) 2:13 12:18 18:4,10 36:4 38:18 42:6 45:11 48:22 49:2 53:4 61:12 65:9 76:13 85:24 94:24 100:23 101:2 104:12 106:17,25 108:25 113:14 116:12 116:21 125:13 140:10 146:5 153:15 159:13 163:23 164:4 165:24 166:3 171:24 174:8 180:12 182:10,13,16,18,20,23 191:10 201:20 204:13 208:10,13 208:16,18 210:11 Wilson's (1) 108:7 Winn (1) 165:25 winters (1) 109:8 wipe (1) 94:2 wish (1) 8:7 withdraw (1) 204:6 within-entitled (1) 214:11 WITNESS (1) 214:18 witnesses (2) 168:3,6 woes (1) 112:24 woman (1) 95:18 wonderful (1) 8:9 wood (1) 212:6 words (1) 206:8 work (55) 7:2 8:20 21:2,3,12 23:4 23:25 31:19,23 32:24 33:20</p>	<p>45:24 46:10 47:17 48:4 51:15 65:3,4 74:23 85:10 90:20 91:7,7 98:3 103:21 105:3 110:15 128:19 153:19 161:22 170:10,11 172:19 176:5,14 178:20 179:7 180:6,24 184:16,18,20 185:4 186:3,17 199:7,10,11 200:3,8 203:25 206:11 207:20 211:2,12 worked (8) 43:18 110:20 113:8 169:7 202:7 203:2 209:6,15 workers (5) 4:18 20:9 210:16 211:8,10 workforce (1) 48:17 working (23) 10:22 33:24 59:3 61:25 62:22 63:8 64:6 76:20 95:25 103:16 113:10 117:16,17 117:18 162:15 163:12 170:20 191:2 202:5 206:25 209:4 211:9 213:3 works (7) 58:22 69:18 99:19 101:9 178:21,21 207:15 world (16) 98:16 100:6 114:25 115:2 116:6 131:9,13,19,22 132:2,23 133:9 149:7 150:13 151:25 193:21 worldwide (2) 145:25 159:18 worried (2) 107:12 174:18 worries (1) 192:25 worry (1) 152:16 worse (1) 115:17 worship (1) 130:10 worst (1) 106:4 wouldn't (9) 54:23 63:16 81:19 98:2 118:19 145:5 148:18 180:23 181:7 Wow (1) 179:17 wrap (2) 153:5 189:23 Wright (1) 189:18 writ (1) 84:24 write (4) 80:16 177:2 178:11 194:16 writes (1) 128:16 written (11) 12:21 15:9 18:13 30:11 38:22 52:23 94:20 125:7 128:7 138:8 205:21 wrong (2) 85:7 150:20 wrongdoing (1) 87:22 wrote (6) 66:10 137:3,15,23 138:5 138:9</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>Yahoo (1) 212:11 Yankee (1) 194:14 Yeah (15) 28:4,25 55:12 61:9 92:11 112:9,11,19 121:14 129:6</p>
---	--	---

**Taxi and Limousine Commission Meeting
January 5, 2017**

<p>130:25 150:3 177:23 179:5 184:11 year (13) 47:6 95:14 97:16 99:10 113:17 115:11 166:7 181:2 191:13 197:9 198:15 212:24 213:7 years (25) 5:19 9:22 10:10 28:10 28:13 40:8 61:23 62:8,12,15,23 63:9,14 64:7 101:12 102:20 126:25 127:23 130:22 131:11 137:25 139:10 172:5 197:19 199:14 yellow (38) 4:10 15:2 19:5 27:11 32:10,16 33:7 37:11 40:10 44:3 44:16 86:14 88:7,9 89:2,4 91:25 101:24 102:15 103:11 104:5 107:14 111:2 113:3 131:4 132:10 132:16 133:15,16 174:11 175:4 176:21 177:14 179:24 180:5,9 195:6,9 yellow (8) 29:6 37:6 58:17,18,19 61:4 134:25 193:10 yield (1) 123:21 York (71) 1:3,22 3:8,16 4:6,18 5:4 9:19,20 10:18 30:23 31:23 36:14 40:22 41:2,12 42:8,14 43:3 44:25 48:2 61:24 62:24 71:6 76:24 77:10 84:18,20 85:8,13,19 86:4 89:11 95:8,15 101:6,12,22 106:8 113:20 114:23,25 115:13,13 128:13 137:15 144:21,24 145:3 145:24 146:14 147:22 152:15 159:19,21 160:19 166:16 170:14 174:11 176:21 192:23 197:15 201:14,24 202:2,4 204:11 210:16 211:16 214:4,8 York's (3) 70:13 76:21 84:22 Yorker (1) 39:25 Yorkers (14) 31:21 33:4 36:9 39:9 42:2 61:15 62:6 69:8 75:20 113:2 114:20 141:5 167:12 208:24 younger (1) 7:3</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zero (19) 19:4,14 31:3 42:18 44:11 62:9 63:6,18 101:17 105:10,18 105:19 107:5,5 118:3 125:21 157:16 170:2,6 zone (5) 17:10,15 67:10 71:5 151:16 zones (2) 17:11 26:6</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1:57 (1) 213:10 1:58 (1) 213:7</p>	<p>10 (14) 22:8,12 23:10 50:2,5 96:20 110:16 116:16,17 167:25 173:14 181:13 186:7 211:9 10-hour (5) 104:24 164:12 167:19 181:9 208:22 10-minute (1) 116:15 10,000 (2) 60:21 175:5 10:00 (3) 1:13 50:5 184:8 10:02 (1) 23:7 10:22 (1) 2:2 10:25 (1) 5:3 100 (2) 175:6 198:16 100,000 (1) 198:16 101 (1) 3:19 104 (1) 3:20 10543 (1) 1:22 109 (2) 3:21 47:8 11 (2) 11:23 39:15 11:00 (2) 183:25 184:8 11:07 (1) 23:7 11:25 (1) 23:14 11:45 (1) 116:23 113 (1) 3:22 117 (1) 3:23 12 (10) 20:18 22:8,10 52:18 97:14 99:7,11 174:25 211:4,10 12:00 (3) 23:14 50:5,8 12:10 (1) 116:25 123 (1) 136:3 125 (1) 3:24 13,600 (1) 103:11 139 (1) 1:22 14-to (1) 174:24 14,000 (1) 89:2 140 (1) 4:3 140,000 (3) 183:8 185:12 189:9 146 (1) 4:4 148,000 (1) 192:17 15 (4) 5:19 9:22 10:10 152:22 150,000 (2) 179:14,16 153 (1) 4:5 159 (1) 4:6 16 (9) 49:25 50:10,12 95:20 96:22 169:7 173:10 186:3 199:22 16-hour (1) 174:25 16.5 (1) 46:25 164 (1) 4:7 165 (1) 127:6 166 (1) 4:8 16th (1) 214:19 17 (1) 173:10 172 (1) 4:9 174 (1) 4:10 18 (2) 3:3 109:25 180 (1) 4:11 182 (1) 4:12 18th (1) 20:13</p>	<p>19 (1) 11:22 1907 (1) 20:10 191 (1) 4:13 1930s (1) 20:9 1938 (1) 114:13 197 (1) 4:14 1999 (1) 36:18 19TH (1) 1:11</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 (1) 45:17 2,500 (1) 49:9 2:00 (1) 213:6 20 (3) 167:22,25 169:10 200 (3) 173:11 178:16 196:5 2008 (1) 131:8 2009 (7) 6:15 15:3 25:7 27:11 32:18 44:2 212:2 201 (1) 4:15 2011 (1) 6:10 2012 (1) 39:15 2013 (4) 15:3 16:8 32:19 146:18 2015 (4) 39:22 40:8 95:19 103:10 2016 (10) 12:6,20,21,23 13:20 18:12 96:10 97:24 209:15,16 2017 (4) 1:9 18:13 166:8 214:19 2018 (1) 39:18 204 (1) 4:16 208 (1) 4:17 21 (1) 172:13 210 (1) 4:18 212.95.DEPOS (1) 1:23 21st (1) 41:22 221 (1) 199:22 23rd (2) 13:20 42:21 24 (1) 186:19 24-hour (4) 20:23 22:23 23:11 110:16 24/7 (1) 47:15 25 (2) 7:11 169:10 2nd (3) 18:12,13 205:22</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 (1) 11:23 3,000 (1) 41:3 3:00 (1) 185:4 30 (5) 3:5 16:3 61:23 62:15 184:23 31 (1) 101:13 33 (1) 1:10 35 (3) 23:15,16 176:23 36 (1) 3:6 365 (1) 99:10 37 (1) 7:10 38 (1) 3:7</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4:00 (2) 184:15 185:5</p>
--	--	--

**Taxi and Limousine Commission Meeting
January 5, 2017**

40 (2) 96:17 167:14
40,000 (3) 88:25 103:14 183:18
400 (2) 198:5 202:14
42 (1) 3:8
42,000 (1) 107:7
44-year-old (1) 95:7
45 (1) 3:10
49 (1) 3:11
4th (1) 12:20

5

5 (4) 1:9 11:25 176:24,24
5,000 (1) 49:10
5:00 (1) 184:15
50 (1) 167:16
50,000 (1) 179:15
500 (1) 23:18
53 (1) 3:12
535 (1) 23:11

6

6 (1) 97:7
6-hour (1) 170:5
6,000 (1) 47:3
6:00 (5) 50:6,7 183:24 184:4,5
60 (11) 22:9 96:18 104:25 107:16
107:20 110:17 167:14 175:25
176:12 194:19 202:17
60-hour (1) 108:16
600 (3) 23:10 198:6 210:21
61 (1) 3:13
65 (3) 3:14 23:8,9
66,000 (2) 103:12,13

7

7 (5) 11:24 46:24 52:19 99:8
172:13
7,700 (1) 103:12
70's (1) 141:23
72 (2) 20:19 22:9
75 (1) 103:23
75-to (1) 198:16
76 (1) 3:15
7th (1) 12:21

8

8 (12) 20:23 22:24 50:4,6 57:9
173:14 175:24 181:11,11 185:6,7
197:11
8-hour (1) 22:23
8:00 (2) 183:7 184:16
80 (1) 202:10
80,000 (1) 103:10
800 (1) 93:19
86 (1) 3:16
88-year-old (1) 169:3
8th (2) 11:12 12:23

9

9 (2) 7:9 57:10
9:20 (1) 176:22
9:25 (1) 176:23
914.381.2061 (1) 1:23
914.722.0816 (1) 1:23
95 (2) 3:18 59:17
953.3767 (1) 1:23
98 (1) 132:15