



Department of Transport

15 MAY 2009

Professor Neil Rees
Chairperson
Victorian Law reform Commission
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Dear Professor Rees

SURVEILLANCE IN PUBLIC PLACES INQUIRY

I refer to your letter dated 23 April 2009 and subsequent discussions with Lara Rabiee and Emma Cashen from your office on 29 April 2009 regarding the operation of taxi safety cameras in Victoria in the context of the Law Reform Commission's Surveillance in Public Places Consultation Paper.

Taxi Safety Cameras: Background and Legislation

The Victorian Taxi Directorate (VTD) is part of the Public Transport Division of the Department of Transport.

The use of taxi safety cameras is regulated under the:

- *Transport Act 1983*;
- *Transport (Taxi-cabs) Regulations 2005*; and
- *Taxi-cab Licence Conditions*

Section 158B of the *Transport Act 1983* outlines offences relating to taxi safety cameras and privacy of passengers. This section prohibits unauthorised persons from downloading, printing, possessing, publishing, transmitting or disclosing to any other person an image or other data obtained from the use of a safety camera in a taxi. Heavy penalties apply in the case of a breach of this section of the Act.

Only authorised VTD officers can access images from a taxi safety camera and then only following written authorisation for a camera download by a Victoria Police officer of the rank of sergeant or above. The purposes for which images may be downloaded are, in relation to an incident that has occurred in or about a taxi-cab, (a) the improvement or maintenance of, or investigation of any threat to, the safety of persons; or (b) the prevention, detection, investigation, prosecution or punishment of criminal offences or breaches of law imposing a penalty or sentence.

The *Transport (Taxi-cabs) Regulations 2005* (R.15) create an offence for a taxi operator or driver to operate a taxi if a camera is required to be fitted, or has been approved to be fitted, if such camera is not fitted or not working correctly.

All taxis fitted with cameras are required to display notices externally on each door and within the vehicle cabin to notify the public and the driver of the presence of the camera.

Camera Specifications and Operation

In late 2001 the Victorian State Government mandated the installation of Taxi-Cab Safety Camera Systems in all taxi-cabs which operate within the metropolitan, outer-suburban and Geelong taxi-cab zones to improve the safety of taxi-cab drivers and members of the public and for law enforcement purposes.

In August 2007 the Minister for Public Transport announced a strategy to improve safety in the workplace for Victoria's taxi drivers. This strategy was the result of recommendations arising from the 2006-07 Taxi Industry Safety Taskforce and included a commitment to develop specifications for the next generation of taxi safety cameras.

In late 2008, draft function and performance specifications for new taxi safety camera systems were released for comment. These specifications reflect previous work at a national level to improve taxi camera capability and performance and seek to take advantage of advances in technology since the original camera specifications were developed in the late 1990s and early 2000s.

Final specifications for new taxi safety camera systems are expected to be released shortly and I will arrange for these to be forwarded to you when available.

The *Transport Act* prohibits the transmission of images from the taxi to another location and all existing and future taxi safety camera systems must securely hold and protect recorded material within the taxi vehicle. Amongst other things, these systems must include an image recording system that stores images in an encrypted format.

The system supplier has the obligation to take reasonable steps to ensure that encryption keys or proprietary algorithms are protected from unauthorised use and to use recognised industry standard key management practices to prevent unauthorised persons obtaining the keys or algorithms for the purpose of viewing images.

Further, the supplier is required to provide software for the secure download and viewing of images from the Camera System, which must be password protected to prevent the unauthorised viewing, recovery or reproduction of images. The download software is not available to parties other than the authorised VTD download officers.

The Victorian Privacy Commissioner has reviewed the draft 2009 *Taxi Safety Camera Performance Specification* and has confirmed there are no material concerns with the specifications.

Camera Standards and Procedures

The *Victorian Taxi-Cabs Safety Camera Standards and Procedures* outline the various responsibilities by stakeholders regarding the operation of taxi safety cameras.

Key points of interest within these Standards and Procedures include:

- Taxi operators have the responsibility to ensure that downloading of images from the safety camera system is undertaken only by approved download facility operators. Operators must also ensure internal and external signage is in place to clearly indicate to passengers that they will be photographed.
- Taxi drivers must be competent in the operation of a safety camera system, and able to identify when a camera is not working and know how to activate the emergency warning system. Drivers also have the responsibility to report any breach of the privacy protocols to the VTD immediately.
- In providing safety camera systems to taxis, the supplier has a number of responsibilities to ensure the system complies with the specifications, and access to the relevant software is restricted.
- The VTD is the only authorised safety camera Download Facility in Victoria. Pursuant to section 158B of the *Transport Act* 1983, certain employees of the VTD have been authorised to operate the Download Facility. These persons have a number of responsibilities outlined in the Standards, including to operate the facility in a manner consistent with the Information Privacy Principles contained in the *Information Privacy Act* 2000 (Vic).

Options for Reform – Responses to Questions from Chapter Six, Law Reform Commission’s Surveillance in Public Places Consultation Paper.

VTD responses to the consultation paper are limited to those matters which relate to, or may be relevant to, Victoria’s taxi industry.

Question One:

The VTD supports the draft principles proposed by the Commission to guide policy making about public place surveillance.

Question Two:

The use and operation of approved camera safety systems in taxis is tightly regulated as set out above. The VTD would support a proposal to prohibit the use of third-party cameras, such as mobile phone cameras, in taxis. In other words, use of a ‘private’ camera by a taxi driver or passenger inside a taxi should be prohibited in the interests of privacy. Although a taxi may constitute a ‘public place’ for the purposes of the Commission’s paper, the nature of the taxi environment is such that individuals have the right to expect a greater degree of privacy than if they were in an open or shared public space.

Question Three:

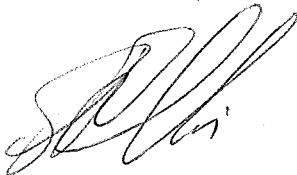
The VTD does not support a role for an independent regulator in respect of taxi safety cameras. As outlined above, the operation and administration of taxi safety cameras is provided for in the *Transport Act* and is tightly regulated. Access to images and related data is restricted to officers authorised and instructed by the Director of Public Transport. This ensures the correct balance is maintained between the privacy interests of individuals captured in images by the camera, and the ability of police to obtain and use images as evidence in order to identify and prosecute offenders.

Questions 4 – 24

These questions are beyond the scope of taxi safety camera operation and the VTD has no comment on these matters.

The VTD provided documents related to taxi safety cameras that may be of interest to the Commission at the meeting on 29 April 2009 and would be pleased to assist with any further information you may require. If you have any queries, please contact me on telephone (03) 9655 6016 or Nicca Grant on telephone (03) 9655 6017.

Yours sincerely



Garry Ellis
Manager, Operational Policy & Strategy
Victorian Taxi Directorate

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