Inward Facing Cameras In Commuter Rail Locomotives

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Inward Facing Cameras Are Coming

- Metrolink – Installed in 2009
- MTA – Announced Intent to Install
- UTA – Announced Intent to Install
- Amtrak – Announced Intent to Install
- Freights
  - Kansas City Southern
  - UP
- FRA Rulemaking May Require
Inward Facing Camera(s)
- Panorama (~270°) & Directly Over Control Panel
- Video And Audio Capability

Data Recorded To Onboard DVR

Data Overwritten Unless Pulled

Some Systems Allow Live Monitoring Through WiFi

Expensive to Install and Difficult To Stop
What is the Issue?

I SEE YOU LOOKING AT ME
State of the Law

- EO 26: Allows use of cameras to monitor compliance with rule prohibiting use of Handheld Electronic Devices
- FRA pursuing rulemaking on inward-facing cameras
- Three courts have affirmed use of inward-facing cameras
  - No privacy or due process issues
  - No prior bargaining with unions
  - Not preempted
- Consistent with general trend allowing cameras in workplaces
Litigated Issues: Privacy Etc.

- Metrolink Cases: Upheld use of cameras to monitor compliance with specific rules
  - No Expectation of Privacy
    - Cabs subject to inspection and visitors
    - No rest rooms or changing areas
  - No Due Process Issues
    - No change in rules of conduct
    - No deprivation or property or legal expectation
  - Not Preempted by FRSA
Metrolink Federal Court Case:

- Metrolink had no duty under RLA to bargain with contractor’s employees
- Metrolink’s decision to install LDVR did not interfere with Union’s RLA “rights” to bargain with employer
Litigated Issues: RLA and Employers

- Kansas City Southern – Freight RR
  - Unions challenged installation without prior bargaining under RLA
  - Minor Dispute: Installation was within reserved powers under CBA or was part of implied agreement based on past monitoring practices
  - Ability to install will be decided by arbitration not bargaining
Future Regulation

- FRA rulemaking to require installation of cameras on passenger & commuter lines.
  - Negotiated rulemaking failed because of lack of consensus on permitted uses of cameras
  - Waiting for NPRM for details on scope
    - Opportunity to comment
    - State Law and implementation issues
  - Freights and Amtrak are considering cameras
Implementation: Usage Policy

- Define Purpose(s) for Viewing Data
  - Broad or Narrow
- Who Gets Access
  - Specific People With Need To Know
  - Law Enforcement
- Procedure for Requesting Data
- Chain of Custody
- How Long will Data be Preserved
Implementation Issues

- Analyze CBA Or Operator’s Contract
- Address Use Of Data In Disciplinary Proceedings
- Address How Employees/Union Can Get Access To Camera Data
  - Rules for Defensive Use In Disciplinary Proceedings
  - Rules for Offensive Use As Exculpatory Evidence
- Address/Consider Access by Public and Press
  - State Public Records Laws And Privacy Concerns
Implementation Issues

- Care In Installation To Prevent Interference With Existing Features
- How To Handle Things Seen But Beyond Scope Of Policy or Rules
- Secure Facilities For Reviewing Data
- Tampering Issues
Questions?

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