

# 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





# Camera Technology

- ▶ 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 of property or legal expectation
  - ▶ **Not Preempted by FRSA**







# Litigated Issues: RLA and Contractors

- **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
  - Freight 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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