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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on
Regulations Relating to Passenger Carriers,
Ridesharing, and New Online-Enabled
Transportation Services

Rulemaking 12-12-011
(Filed December 20, 2012)

**REPLY COMMENTS OF RASIER-CA, LLC
ON PHASE III.B. SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER
TRACK I (BACKGROUND CHECK REQUIREMENTS THAT SHOULD BE
APPLICABLE TO TNCs).**

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May 15, 2017

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I. INTRODUCTION

The Fingerprint Advocates¹ all have one thing in common: their arguments seem to suggest that things should never change. The Fingerprint Advocates’ basic argument is that because taxi drivers have in the past been subject to a fingerprint-based background check, Transportation Network Company (“TNC”) drivers should also go through the same type of background check. (Opening Comments of the Los Angeles Department of Transportation to Order Instituting Rulemaking 12-12-011 (“LADOT”), at 4; Opening Comments of San Francisco International Airport and the San Francisco Municipal Transportation Agency to Phase III. Scoping Memo and Ruling of Assigned Commissioner (“SFO/SFMTA”), at 1.) In support of this argument, the Fingerprint Advocates tout the benefits of a fingerprint-based government background check and deride commercial background checks. They claim that fingerprinting a person will “positively identify” the person and that commercial background checks have the

¹ The Los Angeles Department of Transportation (“LADOT”), San Francisco Taxi Workers Alliance (“SFTWA”), San Francisco International Airport (“SFO”), and San Francisco Municipal Transportation Agency (“SFMTA”), are collectively referred to here as the “Fingerprint Advocates.”

same potential as fingerprint-based background checks to be racially discriminatory. These claims are false. By making these claims, the Fingerprint Advocates show that their arguments were developed without a full and complete understanding of how the different background check systems work.

In an effort to gain a thorough understanding of fingerprint-based and commercial background check systems, the Maryland Public Service Commission (the “Maryland PSC”) conducted extensive proceedings and heard from more than a dozen witnesses, including many relevant experts from government, academia, and business. After these proceedings, the Maryland PSC found that the types of commercial background checks used by TNCs are just as accurate and comprehensive as the fingerprint-based background checks traditionally used for taxi drivers.² This Commission should take full advantage of the Maryland PSC’s work in formulating its decision here, as it is directly on point and based on the most in-depth review to date of relevant information.

In 2013, this Commission had the foresight to adopt background check procedures for TNC drivers in California that rely on commercial background checks paid for by TNCs, instead of fingerprint-based background checks administered by the California Department of Justice (“California DOJ”). Last year, the California legislature ratified that decision by passing Assembly Bill 1289 (“AB 1289”), which requires TNCs to perform a commercial background check on drivers. For the past several years, this background check system has ensured that millions of Californians have had the opportunity to travel safely in a car driven by a TNC

² Lyft, Inc.’s Request for Official Notice of Decision of Maryland Public Service Commission on Applications of Lyft, Inc. and Rasier, LLC for Waiver of Fingerprint Background Check Requirement (“Maryland PSC Decision”), Exhibit A at 15–21.

driver. There is no reason for the Commission to abandon this system, which has proven to be effective, efficient, and fair.

II. The Commission Should Reaffirm the Background Check Procedures It Adopted in 2013, Which Are Based on Effective, Efficient, and Fair Commercial Background Checks.

The Fingerprint Advocates say that the Commission should adopt a duplicative background check system where TNC drivers have to go through a commercial background check and then a fingerprint-based government background check. (LADOT at 3; Opening Comments of the San Francisco Taxi Workers Alliance (SFTWA) on Phase III.B, Track 1, Background Check Requirements that Should Be Applicable to TNCs (“SFTWA”), at 8; SFO/SFMTA at 6.) The Fingerprint Advocates mislabel this a “hybrid” model when in truth it is just two background checks performed one after the other.

As an initial matter, the duplicative model proposed by the Fingerprint Advocates violates AB 1289. As Rasier-CA, LLC (“Rasier-CA”) and Lyft explained in their comments, AB 1289 requires TNC drivers to undergo a certain type of “commercial” background check. (Opening Comments of Rasier-CA, LLC on Phase III.B. Scoping Memo and Ruling of Assigned Commissioner Track I (Background Check Requirements that Should Be Applicable to TNCs) (“Rasier-CA”), at 12–13; Opening Comments of Lyft, Inc. Re: Phase III.B., Track 1 - Background Check Requirements for TNCs (“Lyft”), at 7–8.) A criminal history search that relies on the California DOJ and FBI databases is not a “commercial” background check. Under basic principles of statutory interpretation, by requiring TNC drivers to undergo a “commercial” background check, the legislature intended for the Commission to continue requiring TNC drivers to undergo a commercial background check and not to also require a second fingerprint-based government background check. (Rasier-CA at 13.)

The legislative history discussed at length by Lyft further confirms that the Commission should stick with a commercial background check and not add on a duplicative fingerprint-based background check. (Lyft at 3–7.) The legislative history shows that there were many different proposals to require TNC drivers to undergo a fingerprint-based government background check. (Lyft at 3–7.) Every time the legislature considered this issue, it rejected the call to require government background checks. As Lyft showed, the Commission cannot usurp the power of the legislature and overturn a legislative decision to require TNC drivers to undergo a commercial background check. (Lyft at 7–8.)

Even setting AB 1289 aside, it would be bad policy for the Commission to require TNC drivers to undergo two background checks. Requiring two background checks is unnecessary wasted effort because commercial background checks have been shown to be just as comprehensive and accurate as government background checks. (Rasier-CA at 4–5; Maryland PSC Decision at 15–21.) Moreover, the current background check system is working. Millions of rides have safely occurred under the current TNC driver background check system. There is no reason for the Commission to upend this system, which will impose significant costs and burdens on the many TNC drivers in California and the California DOJ and other agencies that will have to implement the Commission’s decision.

To support their argument calling for a duplicative background check system, the Fingerprint Advocates allege that Uber’s business has not suffered in New York City where a fingerprint background check is required for all drivers. (SFO/SFMTA, at 6.) As an initial matter, it is important to note that New York City has not yet adopted modern TNC regulations like this Commission did in 2013. Instead, all drivers who receive ride requests through the Uber and Lyft networks are traditionally licensed for-hire drivers, like any limousine, black car, or

livery driver in New York City. In presenting this argument, the Fingerprint Advocates also fail to acknowledge that fares in New York City are higher in part because fingerprint-based background checks and other similar inefficient regulatory requirements make it much more time consuming and expensive for new drivers to access Uber. Riders who cannot afford to pay these higher fares are not able to use the Uber network to find a ride, and fewer drivers can access work opportunities using the Uber network.

The Fingerprint Advocates also cite anecdotal examples where the current TNC background check system failed to detect criminal history information for specific TNC drivers. (SFTWA, at 2–3; SFO/SFMTA at 2–3.) No available method of researching criminal history for TNC drivers is 100% accurate. What Rasier-CA and Lyft have shown using comprehensive data and statistics—not anecdotes—is that the FBI and state databases used for fingerprint-based criminal history searches have systemic flaws and are missing large percentages of criminal history information. (Rasier-CA at 5–6; Lyft at 17–22.) Courthouse records, which are searched directly as part of the commercial background check methods used for TNC drivers today, are a more complete and accurate source of criminal history information than the government databases searched using a person’s fingerprints. (Rasier-CA at 2.)

III. Fingerprinting Cannot Always Verify a New Driver’s Identity.

The Fingerprint Advocates contend that subjecting a driver to a fingerprint-based background check is the only way to verify the driver’s identity and ensure that the applicant is not using an alias to hide criminal history information. (LADOT at 1; SFTWA at 1, 8; SFO/SFMTA at 1–3.) Fingerprint background checks are not this powerful. A fingerprint-based background check can only verify that the person whose fingerprints are scanned does not have records in the state or federal criminal history databases. If the person whose fingerprints are

scanned does not have criminal history information in these repositories, then no results are returned and the applicant has not been “positively identified.” As Lyft argues, a malicious applicant with criminal history information can abuse this system because Live Scan vendors may not be able to verify that the person present for fingerprinting is the same person who is applying for permission to operate as a taxi driver. Lyft argues that a driver applicant with criminal history information just has to find someone without criminal history willing to pose as the driver at the Live Scan location. (Lyft at 16–17.) Fingerprinting, therefore, is not a fully “reliable means of confirming a person’s identity,” (SFTWA at 1), and cannot always “positively identify a driver-applicant and verify that the driver who presents herself as Jane Doe is indeed Jane Doe,” (SFO/SFMTA, at 1).

The Fingerprint Advocates ignore the steps that TNCs and commercial background check providers take to verify an applicant’s identity. The Fingerprint Advocates’ arguments make it seem like an applicant can deceive a commercial background check provider by merely providing a made up name. (SFO/SFMTA at 2.) However, as explained in the Maryland PSC proceedings, commercial background check providers and TNCs confirm the applicant’s identity by comparing information gathered from a number of different sources, like the Social Security Administration, financial institutions, and driving records.³ If the information does not all match, the background check is halted and the search will not resume unless the applicant can resolve the issue.⁴ The documents that each applicant submits are also reviewed for signs of

³ Exhibit A, Testimony of Boniface Idziak on behalf of Rasier, LLC, at 9–13 (Sept. 15, 2016); Exhibit B, Testimony of Joe Sullivan on behalf of Rasier, LLC, at 26–28 (Sept. 15, 2016).

⁴ Exhibit A, Testimony of Boniface Idziak on behalf of Rasier, LLC, at 12–13 (Sept. 15, 2016);

tampering and the applicant's photograph is compared to the photograph on the applicant's drivers license.⁵

IV. Fingerprint-Based Government Background Checks Can Lead to Racial Discrimination.

The Fingerprint Advocates allege that there is no risk of unfair racial discrimination with fingerprint-based background checks because the state agency that administers these background checks, the California Department of Justice, is required to undertake a search for conviction information if an initial search discloses that an applicant has been arrested. (SFO/SFMTA at 4, SFTWA at 5.)

This additional search, however, is where the problem lies. As Rasier-CA showed in its comments, an additional search for missing conviction information can take months. (Rasier-CA at 7.) Up to 40% of arrest records in the California DOJ database are missing conviction information. (Rasier-CA at 6.) Therefore, the prospect of lengthy delays for TNC drivers with arrest records is a very real and serious problem. Requiring all TNC drivers in California to undergo a fingerprint-based background check will substantially increase the workload of the officials who process background checks and will likely lead to even lengthier delays. The Fingerprint Advocates agree with Rasier-CA that certain racial minorities are arrested at excessive rates. (SFO/SFMTA at 4.) Accordingly, there can be no dispute that the delays that result from subjecting TNC drivers with arrest records to a fingerprint-based background check will have an unfair effect on racial minorities in California who have been subject to unfair policing.

The Fingerprint Advocates make two related arguments that also fail. First, the Fingerprint Advocates claim that the lack of racial bias with a fingerprint-based background

⁵ Exhibit B, Testimony of Joe Sullivan on behalf of Rasier, LLC, at 27 (Sept. 15, 2016).

check is demonstrated by the fact that there are a large proportion of minority taxicab drivers in some California cities. (LADOT at 3; SFO/SFMTA at 4.) These statistics reveal nothing about the racial impact of a fingerprint-based background check and the Commission should not consider them in rendering its decision. The Fingerprint Advocates have not shown what percentage of taxi drivers in this statistic are members of racial minorities who have been subject to unfair policing in California. Instead, the Fingerprint Advocates lump “immigrants from countries in Africa, Asia, and the Middle East” into one homogenous group. (SFO/SFMTA at 4.) In addition, these statistics do not show the number of minority drivers who faced undue delays in the processing of their applications or the number of minority drivers who were deterred from even applying to become a taxi driver.

Finally, the Fingerprint Advocates argue that any bias would equally apply to commercial background checks. (SFTWA at 5.) This is incorrect. Commercial background check providers search for conviction information in court records in jurisdictions where the applicant has lived, worked, or had a law enforcement interaction.⁶ The resulting report lists the offenses that applicant has been convicted of.⁷ Delays caused by searching for information missing from a list of arrests are not a factor because a robust search for the relevant conviction information is built into the criminal history search process.

⁶ Exhibit A, Testimony of Boniface Idziak on behalf of Rasier, LLC, at 18–20. In conducting their searches, commercial background check providers must establish and follow procedures to assure the maximum possible accuracy of the information in the report. 15 U.S.C. § 1681e(b).

⁷ Exhibit A, Testimony of Boniface Idziak on behalf of Rasier, LLC, at 19–20.

V. Commercial Background Checks Have Fair Procedural Safeguards.

The Fingerprint Advocates allege that fingerprint-based government background checks are better than commercial background checks because they are confidential, do not require duplicative checking of drivers who work for multiple companies, and give drivers due process protections. (SFTWA at 4–5.) First, commercial background checks performed by TNCs are confidential. The Fingerprint Advocates have cited no examples of the information in a TNC driver background being used by any unauthorized parties or used improperly by a TNC. Second, although the current background check system may require duplicative checking of drivers who affiliate with different TNCs, the costs are paid for by TNCs not taxpayers. Third, the companies that perform commercial background checks for TNCs are regulated by the Fair Credit Reporting Act (“FCRA”). The FCRA sets out specific procedures that consumer reporting agencies must follow in order to ensure that the individuals subject to a background check are treated fairly.⁸ (Rasier-CA at 8-9 (citing prior comments).) The Fingerprint Advocates claim, without any support or explanation, that individuals subject to a government background check are protected by “due process.” (SFTWA at 4–5.) The Fingerprint Advocates have not identified how the Due Process Clause helps a person who fails a background check appeal the result of the background check. In any event, the FCRA offers specific procedures that allow a person who has failed a background check to appeal the results.⁹ Under those

⁸ Relatedly, the Fingerprint Advocates claim that the types of procedural safeguards found in the FCRA and related state laws show that commercial background checks are less effective. (SFO/SFMTA at 3.) Rather than showing that the background checks are ineffective, these safeguards protect applicants and help ensure that the results are accurate and arrived at fairly.

⁹ See Federal Trade Commission, A Summary of Your Rights Under the Fair Credit Reporting Act, available online at <https://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf> (accessed May 14, 2017).

procedures, the agency must conduct an investigation if an applicant identifies incomplete or inaccurate information to the consumer reporting agency.¹⁰

VI. CONCLUSION

For the reasons stated above, the Commission should reaffirm its 2013 decision to adopt a commercial background check system for TNC drivers and consider adopting the additional procedures outlined by Rasier-CA in its opening comments. (Rasier-CA at 12.)

Respectfully submitted on this 15th day of May, 2017 in San Francisco, California.

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¹⁰ *Id.*

Exhibit A

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND**

IN THE MATTER OF THE)	
PETITION OF RASIER, LLC FOR)	
WAIVER OF SECTION 10-104(b))	Case No. _____
CRIMINAL BACKGROUND CHECKS)	

Direct Testimony of

Boniface Idziak

CHIEF COMPLIANCE AND GOVERNMENT RELATIONS OFFICER
AT ACCURATE BACKGROUND, INC.

On behalf of Rasier, LLC

September 15, 2016

1 **I. Background**

2 **Q: Can you please state your name, place of employment, and current position?**

3 A: My name is Boniface Idziak. I am the Chief Compliance and Government
4 Relations Officer at Accurate Background, Inc., a provider of comprehensive employee
5 screening and human resource support services.

6 **Q: Immediately prior to joining Accurate Background, Inc., where did you**
7 **work, and what was your position?**

8 A: From June 1, 2015 to June 17, 2016, I was the Head of Government Relations and
9 Compliance at Checkr, Inc. ("Checkr"). Checkr is headquartered in San Francisco,
10 California. I moved back to Tampa, Florida this year. Because I could not work remotely
11 for Checkr, I had to leave my position when I returned to Florida.

12 **Q: Is Accurate affiliated with Checkr?**

13 A: No. In fact, Accurate is one of Checkr's competitors in the background screening
14 industry.

15 **Q: Can you please describe your experience in the background screening**
16 **industry?**

17 A: I have worked in various roles in the background screening industry for nearly 20
18 years. Before joining Checkr, I served for twelve years as the CEO of an internationally
19 recognized background-screening firm, Applicant Insight, Inc., which is also licensed as
20 a Private Investigation Agency. In addition, from 2010 to 2015, I was the Co-Chair of
21 Government Relations for the National Association of Professional Background
22 Screeners ("NAPBS") and am currently a member of the Board of Directors; and from
23 2009 to present, I have been on the Board of Directors and served three terms as

1 Chairman for the HR Open Standards Consortium, a global standards body that addresses
2 numerous human resources issues, including background checks. I am on the Board and
3 am the immediate past-President of the Substance Abuse Program Administrators
4 Association.

5 I also work with a number of non-profit organizations and industry associations.
6 For example, I am on the Board of Directors of The Sue Weaver C.A.U.S.E. (Consumer
7 Awareness of Unsafe Service Employment) organization, which is a global non-profit
8 organization founded in 2004 to promote workforce screening for in-home service
9 providers. Sue Weaver was a woman who had contracted with a premier department
10 store to have the air ducts in her home cleaned. Unbeknownst to her, both of the men
11 sent on the service call had criminal records. One of the men was a twice-convicted sex
12 offender on parole. Six months after the service work was completed, he returned to her
13 home where he raped her and beat her to death. He then set fire to her home in hopes of
14 destroying any evidence. The organization named in her honor advocates for companies
15 to perform criminal background screening on service organizations that send workers into
16 homes. The scope and method of background checks advocated by the organization are
17 consistent with the standards used to perform background checks for Rasier LLC
18 (“Rasier”), including adjudication (disqualifiers of potential employees) of potential
19 driver partners.

20 I am also a long-standing and contributing member for several industry
21 associations, including the Society for Human Resource Management, American
22 Transportation Association, American Society for Industrial Security, Drug and Alcohol

1 Testing Association, and Securities and Insurance Licensing Association. A copy of my
2 curriculum vitae is attached as Exhibit BI-1.

3 **Q: What is the purpose of performing background checks on a prospective**
4 **employee or contractor?**

5 A: There are multiple purposes: (1) to ensure the safety of potential fellow
6 employees, the public, and customers; (2) to mitigate risk related to possible negligent
7 engagement of independent contractors; (3) to help customers feel safe where there is
8 interaction between customers and the workforce; and (4) to be in compliance with any
9 state or federal laws or regulations.

10 **Q: Who performs these criminal background checks?**

11 A: For many industries and individual companies, criminal background checks are
12 performed by private background check companies that are regulated as consumer
13 reporting agencies (“CRAs”) under the federal Fair Credit Reporting Act (“FCRA”) and
14 corollary state fair credit reporting laws. I have worked with CRAs for many years and
15 have seen and been part of the evolution of the industry. The FCRA regulates the
16 collection, dissemination, and use of consumer information. For purposes of the FCRA,
17 an individual who is the subject of a background check is considered a consumer. The
18 FCRA requires that, when preparing a Consumer Report, a CRA follow procedures to
19 assure “maximum possible accuracy” of the information about the subject of the report.
20 Consumer Reports are often referred to as Background Investigations, Background
21 Checks, Screening Reports, and other similar names.

22 While anyone may search public records on anyone they want, the use of a
23 professional screening or investigating company with a trained, experienced staff that

1 knows where to look and has access to propriety databases containing millions of records
2 assures greater thoroughness and accuracy. In addition, background checking is highly
3 regulated. Organizations seeking background checks of individuals face many federal
4 and state requirements, and consumers have a full array of mandated rights and remedies.
5 Screening firms can help organizations assure compliance with these requirements.

6 **Q: Are there any organizations that set standards for such background checks?**

7 A: Yes. Professional background screeners exist to provide the public with safe
8 places to live and work. The National Association of Professional Background Screeners
9 establishes and promotes a high level of ethics and performance standards for the
10 screening industry. NAPBS provides relevant programs and training aimed at
11 empowering members to better serve clients and to maintain standards of excellence in
12 the background screening industry. As I testified earlier, from 2010 to 2015, I was the
13 Co-Chair of Government Relations for NAPBS and am currently a member of the Board
14 of Directors.

15 **Q: What sources do CRAs use to obtain information related to the subjects of**
16 **background checks?**

17 A: Court records are the ultimate source from which a CRA should obtain
18 information for a criminal background check. Court records are the primary source for
19 information pertaining to the disposition of a criminal charge (for example, whether the
20 charge led to a conviction or acquittal). For that reason, court records provide the most
21 comprehensive and accurate information about a subject's criminal history. Many CRAs
22 also use commercially compiled databases to supplement traditional hands-on court
23 research. While commercial databases should not be used as the sole source of

1 information, these sources are very helpful because they cast a broader net across the
2 country's criminal records. Any information derived from commercial databases should
3 be used to augment the research of court records; it should not be used as a replacement.

4 **Q: Are all CRAs the same?**

5 A: No. As with any industry, the quality of an individual company depends on their
6 adherence to best practices and industry standards. For example, there are CRAs like
7 Checkr that conduct independent research of court records, which is the most complete,
8 accurate, and up-to-date source to determine whether or not someone has been convicted
9 of a crime. However, there are some CRAs that may not take this very critical step.
10 Similarly, there are companies like Checkr that incorporate into their screening process
11 procedures to validate the identity of a consumer who is subject to the search. Other
12 CRAs, however, do not conduct this type of robust screening. As I will further explain in
13 my testimony, the National Association of Professional Background Screeners
14 accreditation process is designed to identify the companies that adhere to industry best
15 practices.

16 **Q: What is Checkr?**

17 A: Checkr is the CRA that conducts background screening on behalf of Rasier
18 throughout the United States, including Maryland. Rasier is a subsidiary of Uber
19 Technologies, Inc. and operates as a transportation network company in a number of
20 states, including Maryland.

1 **Q: Is Checkr regulated or accredited?**

2 A: Yes, as with all CRAs, Checkr is regulated at the federal level by the Federal
3 Trade Commission, which enforces the requirements of the FCRA. The FCRA
4 establishes strict requirements that CRAs must follow.

5 In addition, Checkr has been audited and accredited by the Background Screening
6 Credentialing Council (BSCC) of NAPBS. Through the BSCC, NAPBS offers an
7 accreditation program for CRAs in the United States. In order to become accredited,
8 Checkr had its procedures and policies audited by an independent auditor, appointed by
9 the BSCC, and evaluated against strict and thorough professional standards.

10 **Q. Are all CRAs accredited by the BSCC?**

11 A: No. It is very difficult to become accredited, and can take several months or
12 years. Of the 700 CRAs that are members of the NAPBS, only about twenty percent
13 (20%) are accredited by the BSCC. Checkr is one of those select companies.

14 **Q. What did Checkr have to do to become accredited?**

15 A: Checkr had to demonstrate initial and ongoing compliance with the accreditation
16 standard as prepared by the BSCC. These standards include, but are not limited to: (1)
17 maintaining auditing procedures for quality assurance in regard to Checkr's active public
18 record researchers; (2) maintaining procedures to assure maximum possible accuracy
19 when determining the identity of an individual who is the subject of a record prior to
20 reporting the information; (3) designating a qualified individual(s) or position(s) within
21 the organization responsible for understanding court terminology, as well as
22 understanding the various jurisdictional court differences; and (4) having procedures in
23 place to ensure the accuracy and quality of all work product. Compliance is

1 demonstrated through rigorous desk and on-site audits, all of which are completed by an
2 independent third-party auditor. Firms must document each of their policies and
3 processes as required in each of the areas within the standard and demonstrate visible
4 compliance with their policies to the auditor. For example, with regard to CRAs that
5 perform criminal background checks, auditors are instructed to look for a policy or
6 procedure that includes a process for verification of database information by researching
7 in the originating jurisdiction/venue. In performing criminal background checks for
8 Rasier, Checkr, in fact, does verify database information by researching in the originating
9 jurisdictions and venues. A copy of the BSCC audit protocols is attached as Exhibit BI-
10 2.

11 **Q. Does Checkr have clients other than Rasier?**

12 A. Yes, Checkr performs services for more than 3,000 businesses. For example,
13 Checkr performs criminal background checks for Handy, a national and international
14 platform that connects individuals looking for household services, including home
15 cleaning, painting, plumbing, and electrical work, with workers who perform those
16 services. These workers perform services in the homes of Handy's clientele, and have
17 direct contact with the consumers.

18 Checkr performs background checks for Grubhub. Grubhub is the nation's
19 leading online and mobile food ordering company, connecting diners with local takeout
20 restaurants. That company boasts an average of more than 267,000 daily orders and
21 serves approximately 7 million customers. Checkr performs background checks on
22 potential drivers for Grubhub. Those drivers would then drive to the homes or
23 workplaces of diners and have direct interactions with those customers. Checkr also

1 performs background checks for Instacart, a national grocery delivery service. The
2 delivery personnel have direct interactions with customers in the customers' homes

3 **Q: What are you here to testify about?**

4 A: I am here to discuss background check procedures in general and specifically
5 testify about the background checks that Checkr currently performs on behalf of Rasier in
6 Maryland.

7 **Q: Have you testified previously as an expert in the area of criminal background**
8 **checks?**

9 A: Yes, I've testified multiple times in public hearings, before state legislatures, at
10 United States Congressional hearings, and in formal and informal proceedings before
11 regulatory agencies, such as the EEOC and FTC.

12 **II. Checkr's Criminal History Background Check Procedures**

13 **Q. What information is provided to Checkr before Checkr begins its screening**
14 **process for Rasier?**

15 A. Checkr obtains the applicant's the full name, date of birth, social security number,
16 address, zip code, geographic area in which the applicant proposes to drive as well as the
17 applicant's driver's license number. Checkr also has access to a copy of the applicant's
18 driver's license and other identification as necessary, such as the applicant's social
19 security card, birth certificate, passport, and government issued identification.

20 An individual cannot become a Rasier driver-partner unless that person holds a
21 valid driver's license. With regard to driver's licenses, it is important to note that
22 Maryland is in full compliance with the REAL ID Act. *See* DHS Press Release attached
23 as Exhibit BI-3. The REAL ID Act was enacted in 2005 based on a recommendation from

1 the 9/11 Commission. In the Act, the federal government set standards for the issuance
2 of sources of identification, such as driver's licenses. The Act was enacted because, as
3 the Department of Homeland Security has explained: "Law enforcement must be able to
4 rely on government-issued identification documents and know that the bearer of such a
5 document is who he or she claims to be." Similarly, Checkr relies on such government-
6 issued identification.

7 **Q: What is the first step in Checkr's screening process?**

8 A: Checkr's first step is to validate the identity of the applicant. Checkr validates
9 identity through a variety of means. One step is to conduct a social security trace. The
10 social security trace is a tool that generates all credit header information associated with
11 the social security number. Thus, this tool enables Checkr to identify all instances in
12 which the social security number was used by a company that generated a credit report in
13 connection with the social security number. The social security trace returns all names,
14 including aliases and variations, as well as all dates of birth and address history
15 associated with the social security number.

16 Checkr also validates the applicant's social security number by using information
17 provided by the Social Security Administration, for example, state and year of issuance,
18 and whether the social security number has been reported to the Social Security
19 Administration as being used fraudulently. Checkr compares the name and date of birth
20 information in this database with the information supplied by the applicant to ensure that
21 the address history information is correct. Red flags include indications that a social
22 security number is being used fraudulently, *e.g.*, is being used by multiple individuals, or
23 is part of the Death Master File. The Death Master File is an extract of death information

1 on the Social Security Administration's electronic database. That database contains
2 SSA's records of social security numbers assigned to individuals since 1936, and
3 includes, if available, the deceased individual's social security number, first name,
4 middle name, surname, date of birth, and date of death. SSA provides the Death Master
5 File to the Department of Commerce's National Technical Information Service, a
6 clearinghouse for government information, which in turn makes it available to the public.
7 Any red flags would stop the screening process unless the issue is resolved.

8 **Q: Does Checkr do anything else to validate identity and discover other**
9 **identifying information about the subject of the screen, including aliases and name**
10 **variations?**

11 A: Yes. Checkr searches commercially available databases, including databases
12 maintained by credit bureaus such as Equifax, Transunion, and Experian and databases
13 maintained by address locator services. These databases contain information purchased
14 from entities that collect names, addresses, and other personally identifying information,
15 such as the U.S. Postal Service, credit card companies and financial institutions, utility
16 companies, hospitals, and magazines.

17 Checkr uses sophisticated algorithms to find matches and partial matches in these
18 databases. Checkr compares all matches and partial matches to identify all names, name
19 variations, misspelling of names, and addresses associated with the individual.

20 These databases are a common tool used by entities that conduct searches for
21 individuals. For example, it is common for law enforcement, private investigators, law
22 firms, bounty hunters, and creditors to use these databases for "skip tracing" purposes.
23 Skip tracing is a term that refers to searching for individuals who have failed to appear

1 for court appearances, or failed to honor debts or legal obligations such as child support,
2 or whose whereabouts are otherwise unknown.

3 **Q: How does Checkr search these databases?**

4 A: Checkr uses the name variations and aliases it obtained during the identity validation
5 stage to search these databases. In return, the database uses an algorithm to search for
6 matches and partial matches in order to generate a list of addresses associated with the
7 applicant. This list will include any residence at which the applicant has received utility
8 bills, bank statements, magazines, and other similar types of mail. It will also return any
9 work addresses that the applicant has provided to banks or other institutions as a place of
10 employment. For example, when an individual applies for a credit card, the person is
11 typically required to provide his or her home address, place of employment, and other
12 similar information. In turn, that information is incorporated into these commercial
13 databases.

14 The address locator databases are designed to generate a list of addresses where
15 the applicant has lived or worked. In recent years, these commercial databases have been
16 able to use more powerful computer systems and increasingly sophisticated algorithms to
17 increase the accuracy of their databases.

18 **Q: Does Checkr limit its address history search about an applicant?**

19 A: No. Checkr reviews all data sources for past addresses of a potential driver-
20 partner, and will search as far back in time as possible.

1 **Q: Why does Checkr use an address locator service instead of asking the**
2 **applicant for a list of home and work addresses?**

3 A: Using an address locator service allows Checkr to come up with a more accurate
4 and comprehensive list of past addresses. Checkr has found that many people have a
5 difficult time remembering addresses that they used years ago. Relying on information
6 provided by the applicant would also enable applicants to intentionally conceal criminal
7 history information by not providing an address in a location where they have a criminal
8 record.

9 **Q: What happens if Checkr identifies any information that provides a basis to**
10 **suspect that the information provided by the applicant does not match the identity**
11 **of the applicant?**

12 A: If Checkr encounters any suspicious activity – a fraud alert on a credit report,
13 inconsistent name use, inconsistencies with respect to date-of-birth – its systems
14 immediately create an exception alert. Checkr halts the search and notifies Rasier. The
15 search will not resume unless the applicant can resolve the issue. In response, the
16 applicant could supply a police report that they filed showing that they were a victim of
17 identity theft in the past, which would account for a fraud alert. Before allowing the
18 check to proceed, Checkr personnel validates the authenticity of the documentation by
19 contacting law enforcement agency that was the recipient of the letter to confirm the
20 events described in the letter.

21 **Q: Who performs the identity validation process described above?**

22 A: While most of the process is automated, Checkr's support team reviews any
23 discrepancies. All Checkr support team employees have completed an NAPBS FCRA

1 training course. Checkr has an escalation team that is tasked with handling more
2 complex issues, such as issues involving social security numbers. The employees on that
3 team have all completed a more intensive FCRA training course.

4 **Q: What other steps does Checkr take during the initial phase of its screening**
5 **process?**

6 A: Checkr completes a motor vehicle records check on the individual by pulling
7 motor vehicle records from the jurisdiction where the individual holds a driver's license.
8 This check is pulled directly from the motor vehicle administration and will contain
9 motor vehicle history, such as their history of moving violations, for that individual.

10 **Q: What is the purpose of completing a motor vehicle records check?**

11 A: Checkr reviews an individual's motor vehicle history is to determine whether the
12 individual's driving record would disqualify him or her from operating as a Rasier driver-
13 partner in that jurisdiction. The specific Motor Vehicle records check criteria is set by
14 Rasier. If the motor vehicle records check reveals that the individual does not meet the
15 requisite criteria—for example, because they have too many moving violations in recent
16 years—Checkr stops the remainder of the background check process while the applicant
17 is sent an Adverse Action Notice. I will describe the Adverse Action Notice process in
18 more detail later in my testimony.

19 The motor vehicle history check may also reveal additional address history for the
20 applicant, which is then used in the later stages of the screening process. Additionally,
21 Checkr uses the driving history report to validate the applicant's driver's license number.

22 **Q: What is Checkr's next step after it completes the motor vehicle records check**
23 **phase?**

1 A: Checkr next uses the information it obtained from the identity validation, motor
2 vehicle records, and address locator stages to conduct a comprehensive search of more
3 than 1,700 data sources containing more than 300 million records of criminal history
4 information to determine where an individual may have ever committed a crime or
5 otherwise had contact with law enforcement. This part of the process is commonly
6 referred to as the multi-state, multi-jurisdictional criminal history search. The data is
7 compiled from, among other sources:

- 8 • Court, inmate, and warrant records from states administration offices of courts,
9 state departments of correction, county agencies, and other sources.
- 10 • The Dru Sjodin National Sex Offender Public Website maintained by the United
11 States Department of Justice and every publicly accessible state, tribal and U.S.
12 territory sex offender registries. While the Dru Sjodin National Sex Offender
13 Public Website is intended to be a collection of all state registries, Checkr
14 searches state registries because there can be discrepancies between these sources.
15 The Checkr system flags sex offender records as a possible match based on name
16 and age. Checkr's Quality Assurance team then reviews all potential matches
17 manually. All Quality Assurance associates will verify the applicants photo ID,
18 age, and address with what is available on the both the Dru Sjodin and state
19 specific registry websites. Based on the information, Quality Assurance
20 associates will determine if the record is a match with the applicant.
- 21 • National and international caution lists, which include the FBI's Most Wanted
22 lists, the Interpol Most Wanted Lists, the U.S. Drug Enforcement Administration
23 Most Wanted Lists, the Office of Foreign Assets Control Specially Designated

1 Nationals and Blocked Persons List. If Checkr discovers that an individual whose
2 background it is reviewing is on one of these lists, it reports the person to the FBI.

- 3 • Commercial criminal data repositories, which are populated with information
4 learned by CRAs after checking court records.

5 In addition, Checkr searches for information regarding federal crimes by checking the
6 Public Access to Court Electronics Records (“PACER”) database, which contains court records
7 from federal trial and appellate courts.

8 The Maryland data sources that are searched as part of this review include:

- 9 • The Maryland Administrative Office of the Courts databases, which contains
10 information about felony and misdemeanor cases docketed in the Circuit Courts
11 and District Courts of Maryland.
- 12 • Inmate records databases maintained by the Maryland Department of Public
13 Safety and Correctional Services and the Maryland Department of Corrections.
14 These databases contain information about individuals who have been in the
15 custody of that department, including the Division of Pretrial Detention and
16 Services and all Maryland State prisons and pre-release centers.
- 17 • The warrant databases maintained by counties and municipalities in Maryland.
18 These databases provide information about whether there is an active warrant for
19 the subject of the background check.
- 20 • The Maryland sex offender registry. Information on the sex offender registry
21 includes, among other things, the offender’s name, age, address, and photograph,
22 a description of the crime or crimes committed, aliases, information about the
23 offender’s vehicle (vehicle make, model and color; and license plate), and the

conviction jurisdiction (location of the state, federal, military, or tribal court where the offender was convicted and sentenced).

Checkr's data sources contain comparable information from every state and territory in the United States.

Q: When searching these databases, how does Checkr determine whether a particular entry corresponds to the applicant?

A: Checkr uses proprietary matching algorithms to identify possible matches and partial name matches. Both the matching algorithms and search procedures themselves look at more than the name provided by the applicant and include aliases, possible misspellings which may include spelling variations of names pronounced the same way (*e.g.*, Shawn and Sean), as well as name derivatives (*e.g.*, Robert, Rob, Bob, and Bobby). These searches contain many redundant and overlapping data points—for example, address history and information compiled directly from commercial data repositories entries associated name history, and name history entries associated address history. This process creates a comprehensive picture of names and address history for an individual. Checkr then uses its proprietary matching algorithms that look at a variety of characters to determine if there is even the possibility of a match.

Personally identifying information obtained earlier in the process— such as date of birth, addresses, driver's license number, social security number, other names by which the applicant is known, and aliases – are used as further matching criteria to determine when a record belongs to the applicant, or conversely when a record does not belong to the applicant. If the algorithms cannot make a definitive match, or if Checkr finds a partial match which does not meet the requisite confidence, Checkr will have a researcher

1 further examine the records and compare it to other information that Checkr knows about
2 the applicant. In many cases, Checkr will request additional documentation from the
3 applicant directly (*e.g.*, passport, birth certificate, social security card, etc.) to compare
4 against and make a determination of whether there is a match.

5 **Q: How did Checkr come up with its list of criminal history databases?**

6 A: Checkr came up with this list of databases by comparing the types of criminal
7 history record information available on the market today and purchasing access to the
8 datasets that it determined were the most accurate and comprehensive. In the United
9 States, a significant portion of the jurisdictions and agencies that compile criminal history
10 information make that information available to data aggregators. These data aggregators
11 compile the information into databases, which the data aggregators in turn make available
12 to consumer reporting agencies such as Checkr. Data aggregators compete with one
13 another to obtain the most accurate and up-to-date datasets. Checkr selected its data
14 aggregator after conducting a review of the datasets available on the market today and
15 selecting the most comprehensive and accurate datasets. Checkr monitors this market
16 and regularly re-evaluates the data aggregator from which it purchases information to
17 ensure that Checkr has access to the most comprehensive and accurate data sources.

18 **Q: Is Checkr the only company that uses these databases?**

19 A: No. Other consumer reporting agencies like Checkr rely on these databases, as do
20 criminal defense law firms and law enforcement agencies. These databases are relied
21 upon by companies doing pre-employment background checks, including many Fortune
22 500 companies, such as FedEx, Walmart and by companies whose employees will work
23 with vulnerable populations such as children, the elderly, or the infirmed, including the

Boys and Girls Club, Girl Scouts, and Care.com, a public corporation that helps families find child care, senior care, special needs care, tutoring, housekeeping, etc.

Q: Once Checkr completes its database search, what is the next step?

A: Checkr's next step is to compile a packet summarizing everything it has learned during the identity validation and discovery phase of its screening, including all personally identifying information (names, misspellings and variations, aliases, addresses, social security number, date of birth) and all suspected criminal history. The suspected criminal history information leads Checkr to the relevant jurisdictions for court record searches. These jurisdictions are in addition to any county in which the Rasier applicant has lived or worked in the past seven years, including those outside the state of Maryland because Checkr always checks those locations even if there is no indication of criminal history.

Q: What does Checkr do with the information it compiled from its lead generation work?

A: Checkr works with a national network of trained researchers who investigate those leads by going to the primary source of criminal history information, which is the courthouse record. The trained researchers must review court records from the relevant jurisdiction to determine whether there is information that may be reported on the final report. These researchers are trained and required to obtain as much relevant information as possible from court records, including the final disposition of any case, sentencing, relevant dates, and administrative court entries, such as probation or warrant information. Court records typically contain identifying information about the convicted person, such as name, address, date of birth, social security number, driver's license number, sex,

1 height, weight, eye color, marks (tattoos or scars) and race. Checkr's researchers
2 compare this information to the information supplied by the applicant and the information
3 Checkr has gathered about the applicant to determine whether the criminal record being
4 reviewed corresponds to the applicant.

5 **Q: Are the independent researchers vetted or audited in any manner?**

6 A: Yes. As a NAPBS accredited screener, Checkr is required to have procedures in
7 place to vet these researchers to ensure they are qualified. Checkr is also required to
8 conduct quality assurance audits. Those procedures are described in Section 4 of NAPBS
9 Accreditation program. *See Exhibit BI-2.* One way that Checkr conducts audits is by
10 sending a research request when Checkr already knows the result (*e.g.*, Checkr has
11 already learned there is a conviction) and verifying that the researcher identified the
12 record correctly.

13 **Q: When searching county case indices, how do the researchers determine**
14 **whether a particular record pertains to an applicant?**

15 A: The individuals who are physically examining the indices first use the applicant's
16 name and any aliases and the date of birth of the applicant to gather information. The
17 information retrieved from county case indices is electronically transmitted to Checkr's
18 headquarters where it is compared to the other personally identifying information that
19 Checkr has obtained during the ID validation stage and discovery phase to determine
20 whether there is a match to the applicant, using best practices as determined by the
21 NAPBS.

22 If software cannot definitively link a record to an applicant, then Checkr will have
23 a researcher review the record to determine whether it corresponds to the applicant. In

1 some instances, Checkr will request further documents from the applicant, such as a
2 passport and other ID cards. In the case of matches or possible matches, researchers will
3 physically examine the court records at the local level.

4 **Q: Where do the researchers look for court records?**

5 A: The researchers review court records in any county in which the Rasier applicant
6 has identified residence or employment address history from the past seven years,
7 including those outside the state of Maryland. In addition, the researchers review court
8 records in any county in which the lead generation search that Checkr conducted showed
9 that the individual may have committed a crime. Checkr obtains and reviews any such
10 records to determine whether they pertain to the applicant using the same matching
11 methodology I just described.

12 **Q: What happens after the researcher completes their research?**

13 A: Based on the information obtained by the researcher, Checkr compiles a report,
14 which is then sent to Rasier for review.

15 **III. Consumer Protections**

16 **Q: Are there laws that govern the accuracy of Checkr's process?**

17 A: Yes. Under the FCRA, CRAs have an obligation to prepare a report that assures
18 the "maximum possible accuracy" of the information on the report. CRAs are subject to
19 civil penalties for failure to comply with this law.

20 **Q: What happens if Checkr's background check finds criminal history about an**
21 **applicant?**

1 A: Checkr follows procedures set forth in federal and state law to notify applicants
2 when Checkr determines that there is reportable criminal history information and
3 provides applicants an opportunity to dispute the background check results.

4 After Checkr provides the criminal history report to Rasier, Rasier performs an
5 individual assessment of every background report to determine whether the individual's
6 criminal history should preclude that individual from operating as a transportation
7 network company driver. If Rasier decides to take any adverse action (*i.e.*, denying them
8 the opportunity to access the Uber platform), two further notices are sent. Rasier's
9 representatives initiate these notices in Checkr's system, and then Checkr notifies the
10 applicant directly. The first notice is a pre-adverse action email letter from Checkr on
11 behalf of Rasier. A background check report is attached to the letter as is a document
12 entitled "Summary of Your Rights Under the Fair Credit Reporting Act." A sample
13 "Summary of Your Rights" document is attached to my testimony as Exhibit BI-4. This
14 report, compiled by Checkr, includes the identifying details used to search the applicant's
15 history. It also lists the driving violations and criminal convictions that are reportable
16 within the guidelines of the FCRA, state, and local consumer protection and privacy laws.
17 The report identifies the source of the violation or conviction and the conviction's
18 respective county and court jurisdiction, offense date, charge type, disposition result,
19 disposition date, and sentence.

20 Before any final adverse action is taken by Rasier, an applicant may challenge the
21 accuracy of the Checkr report and provide additional documentation for at least seven
22 days after receiving results. Checkr will review supplementary materials provided, if
23 any, and will then inform that applicant of any changes made to the report.

1 **Q: What happens if an applicant informs Checkr that the applicant believes that**
2 **information in the background report may be inaccurate or incomplete?**

3 A: If the completeness or accuracy of any item of information contained in a
4 consumer's file at a CRA is disputed by the consumer, the CRA is required under federal
5 law to conduct a free reinvestigation to determine the accuracy and completeness of the
6 disputed information, provided that the dispute is not frivolous. Under the FCRA,
7 generally, the CRA must complete the reinvestigation within 30 days,

8 **IV. Government Repository Background Checks**

9 **Q: Does Checkr fingerprint prospective Rasier's driver-partners to search the**
10 **CJIS Central Repository or the FBI Interstate Identification Index for criminal**
11 **history information?**

12 A: No. CRAs are not permitted to access those repositories. Instead, Checkr has
13 access to the court records which should form the basis for conviction and other
14 disposition information that is supposed to be in those repositories, but is not in many
15 cases. Checkr has an obligation, under federal law, to use procedures that assure
16 "maximum possible accuracy" of the information that it reports. In keeping with this
17 obligation, through a nationwide network of researchers, Checkr actually searches the
18 court records at local courthouses. The court records are the most comprehensive and
19 accurate source of information regarding the disposition of a criminal charge. In
20 addition, Checkr conducts its independent research after searching more than 1,700
21 different databases for possible record matches. Relying on multiple databases reduces
22 the risk that flaws in any one database will skew the results of Checkr's background
23 check. In addition, as stated earlier, Checkr researches the court records in the

1 geographic areas where the prospective driver-partner lives, has lived or worked, or plans
2 to work regardless of whether any of the databases indicate a possible criminal history.

3 **Q: Why did Checkr decide to use a process that includes so much independent**
4 **research?**

5 A: Conducting independent research by obtaining records directly from the court in
6 which the applicant was potentially convicted of a crime is the most accurate way to
7 complete a criminal background check. By obtaining and reviewing original court
8 records, Checkr's process enables Rasier to obtain up-to-date and accurate information
9 about a particular prospective driver-partner. The court record is the ultimate source of
10 comprehensive and accurate information about an individual's criminal history. The
11 FCRA requires that: "Whenever a consumer reporting agency prepares a consumer report
12 it shall follow reasonable procedures to assure maximum possible accuracy of the
13 information concerning the individual about whom the report relates." To meet this
14 federally mandated standard of "maximum possible accuracy" for a criminal history
15 report, it is critical that the entity preparing the report conducts independent research on
16 the actual court records and does not exclusively rely on a secondhand source for that
17 information.

18 **Q: How did Checkr come up with this independent research process?**

19 A: Checkr did not create this process. Many other consumer reporting agencies like
20 Checkr use a similar type of background check process. Checkr's process is consistent
21 with best practices in the background screening industry. As explained above, Checkr
22 has been audited and accredited by NAPBS.

1 Aided by technology and the growth of the background screening market, the type
2 of independent research that Checkr and other companies conduct has become
3 increasingly sophisticated. The primary developments that have improved criminal
4 background screening are the growth of data brokers and databases of criminal history
5 information and the development of a nationwide network of court researchers. Criminal
6 history record information research was not common thirty years ago. Since then,
7 information technology has become widespread. The background screening industry
8 conducts robust research into job applicants on a widespread scale. Research and quality
9 audits have demonstrated that this process is comprehensive and accurate.

10 **Q: Do you have an opinion to a reasonable degree of professional certainty as to**
11 **whether the approach used by Checkr in performing criminal background checks**
12 **for Rasier is as comprehensive and accurate as performing a criminal background**
13 **check using an applicant's fingerprints and searching the Maryland criminal**
14 **history records and the FBI III criminal history database?**

15 A: Yes, I do. Based upon approximately 20 years of experience, having conducted
16 or supervised criminal background checks of millions of individuals, work with multiple
17 CRAs, who conduct similar types of criminal background checks, my affiliation with
18 industry associations, interaction with federal and state regulators and federal
19 lawmakers, my knowledge of the inadequacies of the FBI's database – a database that is
20 not complete or entirely accurate – I can say with confidence that the criminal
21 background checks conducted for Rasier are more accurate and comprehensive than the
22 fingerprint-based background checks of the Maryland CJIS and FBI III repositories.

1 For example, according to a Government Accountability Office report, GAO-15-
2 162, in 2012, ten states reported that 50 percent or less of their arrest records had final
3 dispositions. The approach used by Checkr produces a more accurate and comprehensive
4 result because it takes advantage of modern technology and a nationwide network of
5 court researchers. When people talk about sending fingerprints to the FBI for a criminal
6 history records check, you have to remember that the FBI Criminal Justice Information
7 Services Division is not the source of the arrest data reflected on an FBI identification
8 record, which is sometimes called a “rap sheet.” It only has whatever information is sent
9 to it by various law enforcement agencies. That information often does not reflect the
10 final outcome or disposition of a case. Studies conducted over time have shown that
11 many states fail to provide complete information. Because there is not a single
12 comprehensive database of criminal history information available in the United States
13 today, the approach used in the background screening industry is to search as many
14 databases as possible and use that information as a basis for further independent research.
15 The purpose of this independent research is to locate and review court records, which are
16 the most comprehensive, up-to-date, and accurate reflection of criminal history
17 information. This leading modern approach is the process that Checkr uses in conducting
18 criminal background checks on all Rasier applicants.

19 **Q: Does this conclude your direct testimony?**

20 A: Yes.

Exhibit B

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND**

IN THE MATTER OF THE)	
PETITION OF RASIER, LLC FOR)	
WAIVER OF SECTION 10-104(b))	Case No. _____
CRIMINAL BACKGROUND CHECKS)	

Direct Testimony of

Joe Sullivan

CHIEF SECURITY OFFICER AT UBER TECHNOLOGIES, INC.

On behalf of Rasier, LLC

September 15, 2016

1 **I. Background**

2 **Q: Can you state your name and current position?**

3 A: My name is Joe Sullivan and I am currently the Chief Security Officer at Uber
4 Technologies, Inc. ("Uber").

5 **Q: Please describe your educational background and work experience.**

6 A: I hold a bachelor's degree in Political Science from Providence College and a
7 Juris Doctorate from the University of Miami. In 1997, I became an Assistant United
8 States Attorney in the White Collar Unit of the United States Attorney's Office for the
9 District of Nevada. In 2000, I transferred to the Computer Hacking and Intellectual
10 Property Unit of the United States Attorney's Office for the Northern District of
11 California. During my tenure in the Northern District of California, I was the first line
12 federal prosecutor dedicated full-time to fighting high-tech crime and prosecuted many
13 high profile internet cases, including matters involving digital evidence aspects of the
14 9/11 investigation, international economic espionage, and online child predation. In
15 2002, I left the United States Attorney's Office and became eBay's Senior Director for
16 the Trust and Safety Department. In 2006, I moved to PayPal, which operates a
17 worldwide online payments system, and oversaw their North American Legal Team,
18 which included the litigation, commercial, marketing, product review, and privacy teams.

19 In 2008, I was hired by Facebook, where I first served as Associate General
20 Counsel in the areas of security, privacy, and regulatory law. In 2009, I was promoted to
21 Chief Security Officer. From 2009 to 2015, I was responsible for overseeing Facebook's
22 product security, enterprise security, investigations, and law enforcement relations teams.
23 In April of 2015, I was hired by Uber as its first Chief Security Officer. Earlier this year,

1 I was appointed as a member of President Obama’s Commission on Enhancing National
2 Cybersecurity. The Commission is tasked with making detailed recommendations to
3 strengthen cybersecurity in both the public and private sectors, while protecting privacy,
4 and ensuring public safety and economic and national security.

5 **Q: Please describe your duties and responsibilities as Chief Security Officer for**
6 **Uber.**

7 A: As Chief Security Officer, I am Uber’s highest ranking security executive,
8 responsible for all aspects of safety and security relating to Uber, its subsidiaries, and its
9 associated technology platform (the “Uber App”).

10 **Q: For whom are you appearing in this proceeding?**

11 A: I am appearing on behalf of Rasier, LLC (“Rasier”), a subsidiary of Uber
12 Technologies, Inc.

13 **II. Rasier’s Approach to Safety**

14 **Q: Can you describe Rasier’s current efforts to ensure that its riders and drivers**
15 **are safe?**

16 A: Rasier and its affiliates have a dedicated team of experienced professionals
17 focused on safety initiatives, before, during, and after each ride. The safety and security
18 team has more than 180 professionals with expertise in personal safety, data security,
19 compliance, and product development. Rasier also has a Safety Advisory Board, a group
20 of top experts who bring a wealth of expertise and experience across a variety of safety
21 disciplines. *See Exhibit JS-1, Announcing Uber Safety Advisory Board (Nov. 2015)*
22 *available at <https://newsroom.uber.com/safetyadvisoryboard/>.* These advisors, including
23 former United States Director of Secret Service Mark Sullivan and former Boston Police

1 Commissioner Edward Davis, provide critical recommendations and counsel as Rasier
2 and its affiliates continue to develop new methods and technologies that reduce risk and
3 increase safety for riders, drivers, and the public.

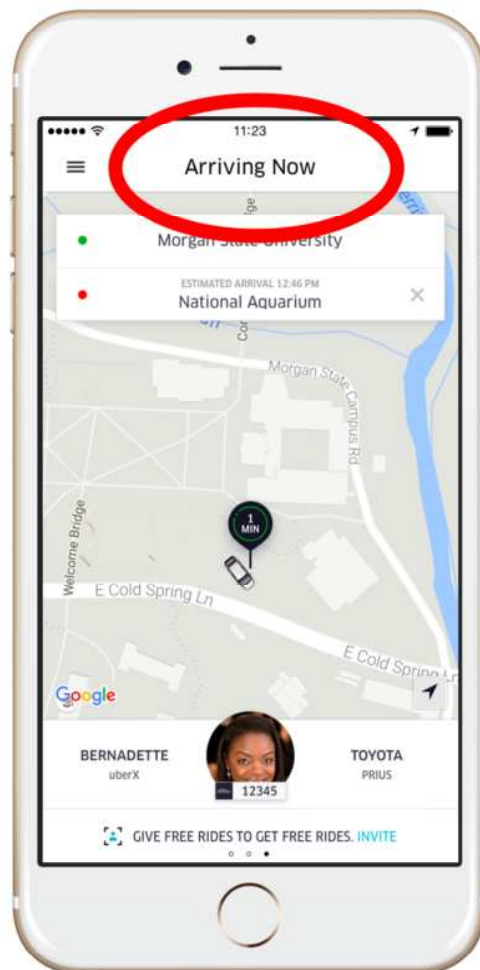
4 In addition, we invest heavily in innovative technology-based safety features that
5 reflect our commitment to rider and driver safety. The Uber App incorporates a number
6 of ongoing and real-time safety features, including monitoring and tracking features, that
7 protect riders and proactively deter unsafe conduct by drivers. These safety features are
8 built into all aspects of the business model and every aspect of a trip, including before the
9 trip begins, during the trip, and after the trip ends. These technological advancements
10 also allow Rasier to continuously improve safety for riders and drivers. By adopting this
11 approach, the Uber App enables millions of safe trips to occur on a daily basis.

12 **Q: Can you summarize the ongoing and real-time safety features that are**
13 **available before the trip begins?**

14 A: Unlike trips conducted via traditional for-hire car services, there are no
15 anonymous interactions during trips arranged via the Uber App in Maryland (or
16 elsewhere). With the Uber App, there is a record of each ride, including the points and
17 times of pickup and drop-off. Before a rider or driver can access the Uber App, he or she
18 must create an account and agree to Terms of Use. To create an account, a rider must
19 provide his or her name, a valid phone number, and may provide electronic payment
20 information. Drivers must provide even more information. All driver applicants must
21 provide detailed personal, vehicle, and insurance information and submit to a driving
22 history and criminal background check. Consistent with applicable rules, driver

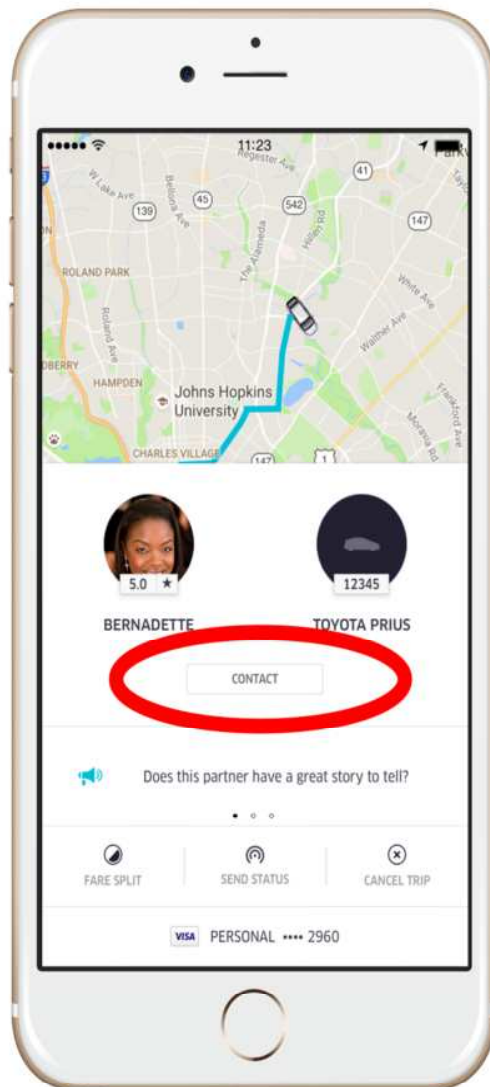
1 information and background checks reports are submitted to the Maryland Public Service
2 Commission (the “Commission”).

3 Safety is built into the entire structure of Rasier’s business and the Uber App.
4 Using the Uber App, a rider can request transportation to any point in the service area.
5 Through the Uber App, the rider can watch the driver’s route live on a map as the driver
6 comes to the pickup location. When the driver arrives, the rider is notified through the
7 rider’s smartphone. This is demonstrated in the screenshot marked as Exhibit JS-2.

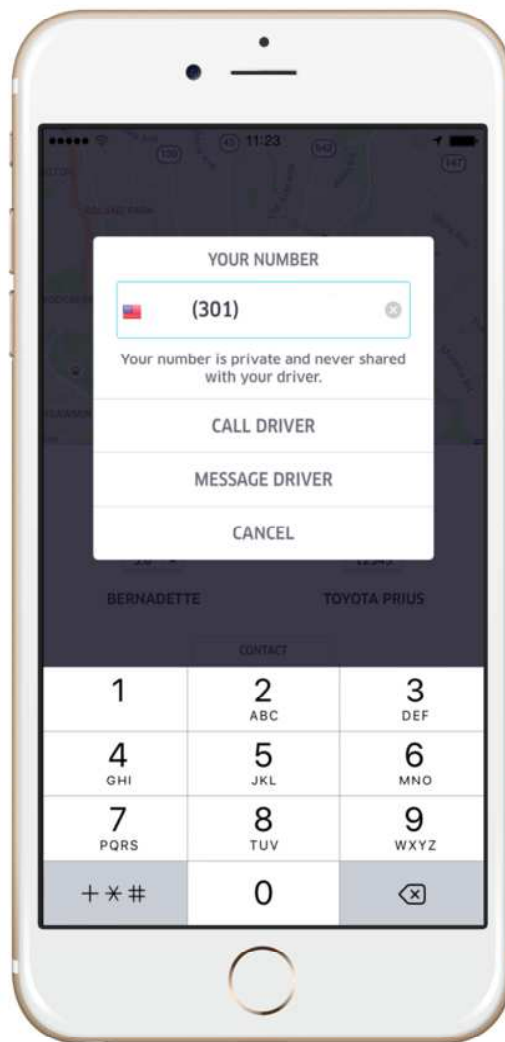


1 This feature allows a rider to request transportation from a safe location and wait at that
2 safe location until the driver arrives—for example, a rider requesting a trip after a late
3 night at work can request and wait in his or her office, rather than waiting on the street.

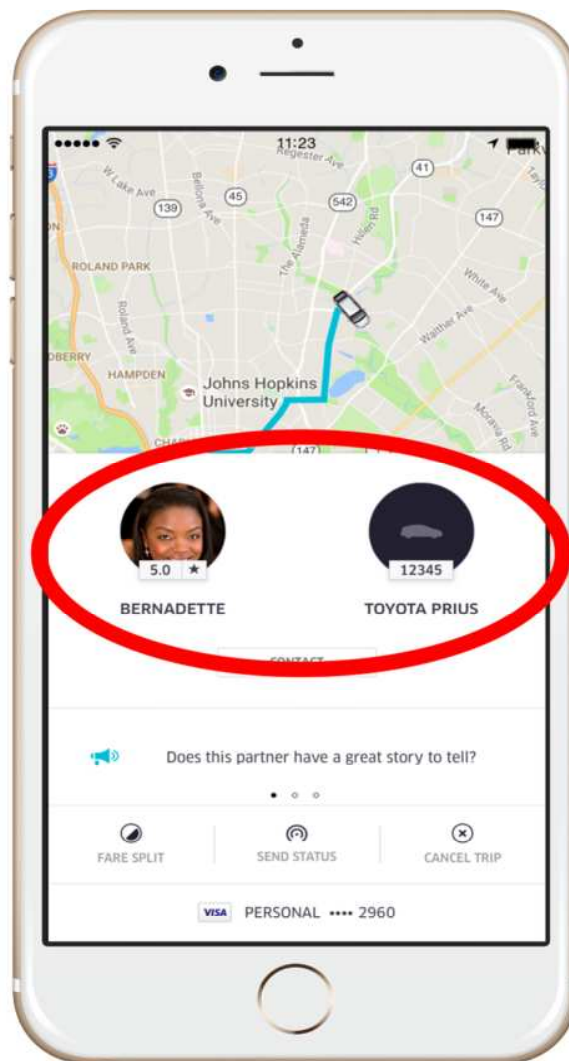
4 There are other features built into the Uber App that promote safety before a ride
5 begins. For example, riders and drivers can contact one another by pressing a button in
6 the Uber App. Exhibit JS-3 shows this feature.

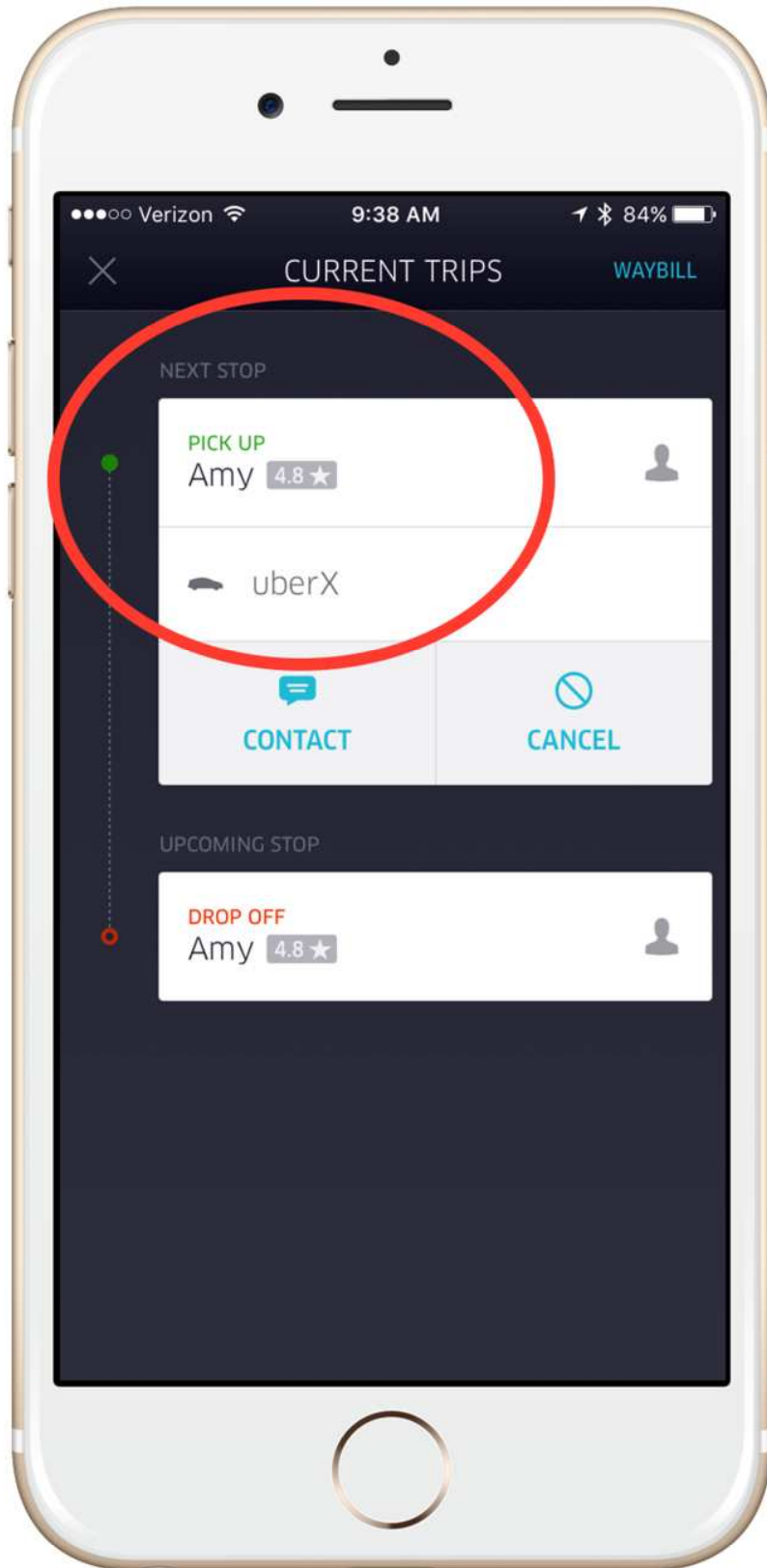


1 The Uber App anonymizes the phone numbers of the rider and driver so that they may
2 communicate with one another about the upcoming ride without sharing their personal
3 phone numbers. The screenshot contained in Exhibit JS-4 shows how this works from
4 the rider's perspective.



1 The Uber App has other features that help ensure that riders do not get into
2 unauthorized vehicles. When a trip request is accepted, the rider and driver are each
3 provided with identifying information to allow them to quickly identify one another at
4 pickup. The rider view is at Exhibit JS-5, and the driver view is at Exhibit JS-6.





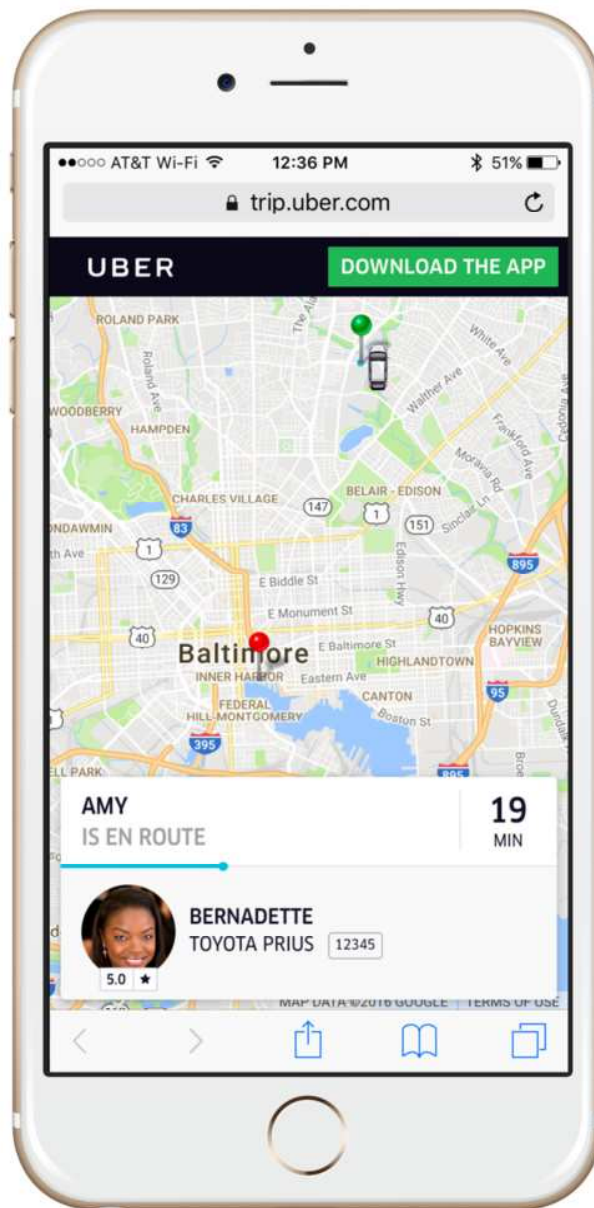
1 Riders are provided with the driver's first name, photo, car make and model, and license
2 plate number. Drivers are provided with the rider's first name. Rating information for
3 the riders and drivers is also provided, which allows each party to confirm that others
4 have had good experiences with that rider or driver.

5 **Q: What are the ongoing and real-time safety features that are available during**
6 **the trip?**

7 A: Multiple features are also available during any trip to ensure a safe ride. For
8 example, riders are able to share their journey live on a map with friends and family, who
9 can follow the ride via GPS from beginning to end.

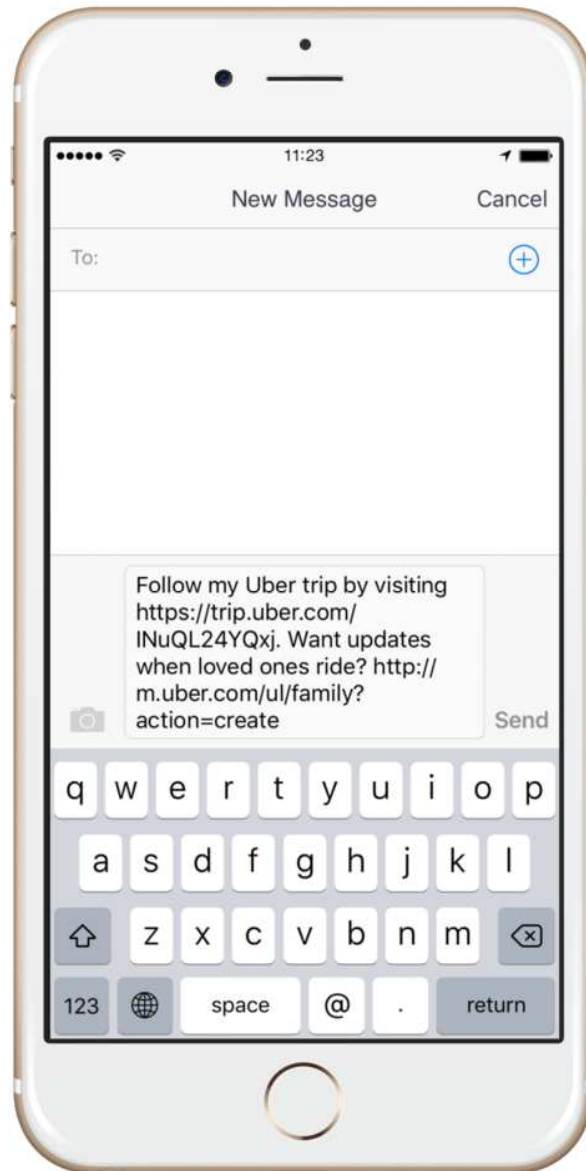
10 **Q: How are riders able to share their journey in real time?**

11 A: A rider's friends and family can track the rider's trip in real-time if the rider uses
12 the "Send Status" feature. The Send Status feature allows a rider to send a link that
13 shares the name and photo of the driver, the driver's vehicle make, model, and license
14 number, the estimated time of arrival to the destination, and the trip's route live on a map.
15 For example, a rider can notify his or her spouse at the moment of pickup, and that
16 spouse can follow the rider's entire trip. The recipient does not need the Uber App in
17 order to track the rider's trip. A recipient's view of the Send Status feature is at Exhibit
18 JS-7.



Rasier recently expanded the Send Status feature by allowing a rider to save a set of contacts in advance so that he or she can share trip details with just one tap of the rider's smart phone. These alerts are sent to the pre-designated contacts by text message.

1 Exhibit JS-8 shows the button that a rider presses to share his or her trip details, and
2 Exhibit JS-9 demonstrates how the link to the Send Status information is shared via text.



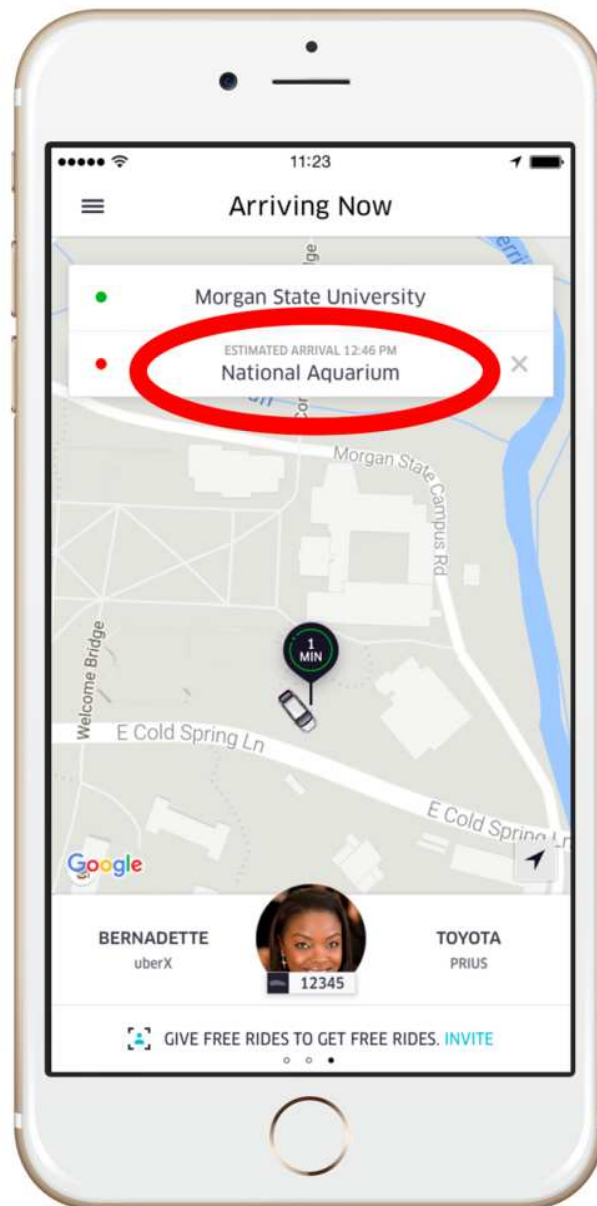
21 Thus drivers are accountable to riders and riders can rest assured that drivers are taking
22 efficient routes.

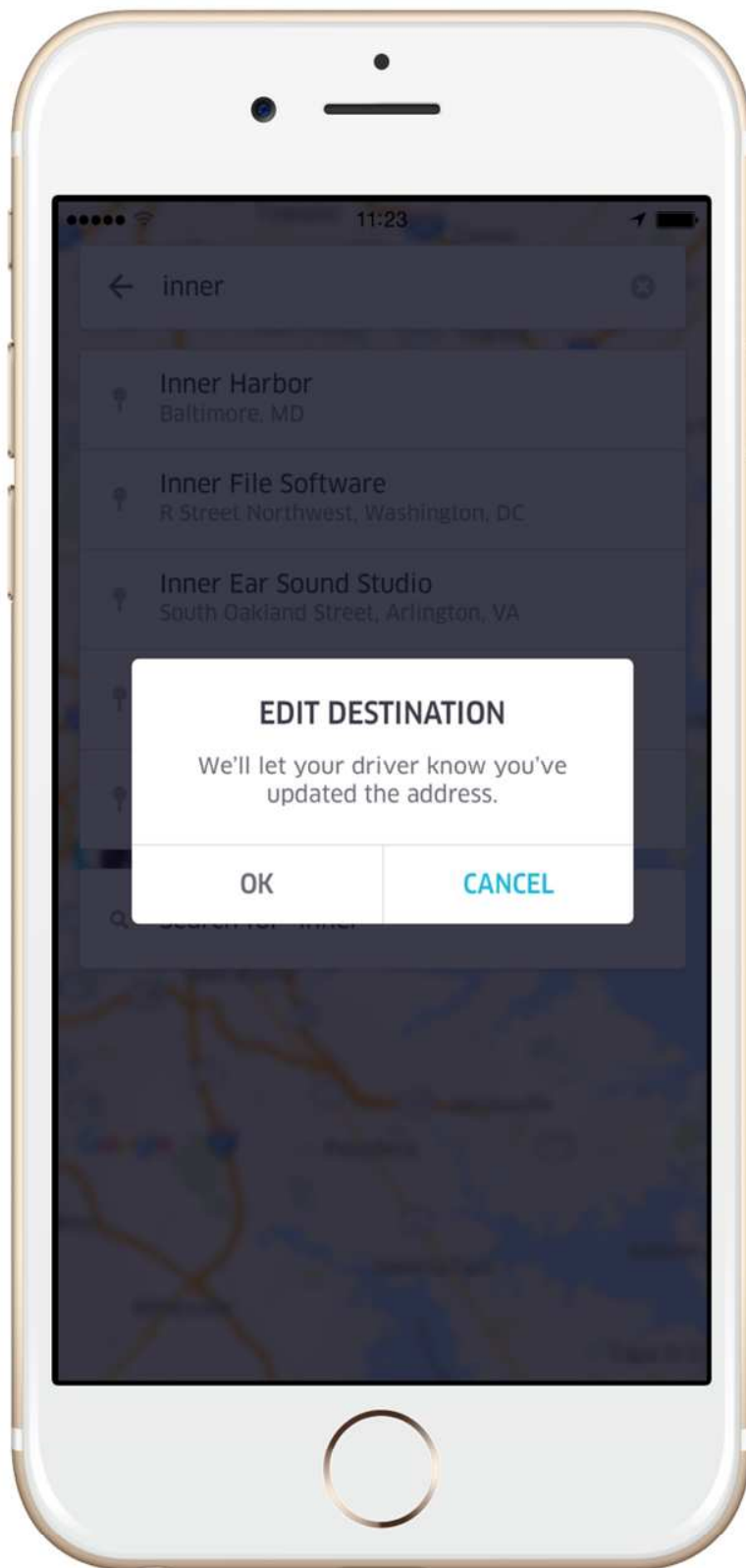
1 **Q: What other ongoing and real-time safety features are available during the**
2 **trip?**

3 A: Unlike traditional for-hire car services for which there may be no record of a trip,
4 Rasier maintains detailed digital trip records. Once a trip begins, the Uber App monitors
5 and stores all relevant trip information, including the names of the rider and driver, the
6 time and date that the rider was picked up and dropped off, the pickup and drop-off
7 locations, and the route traveled.

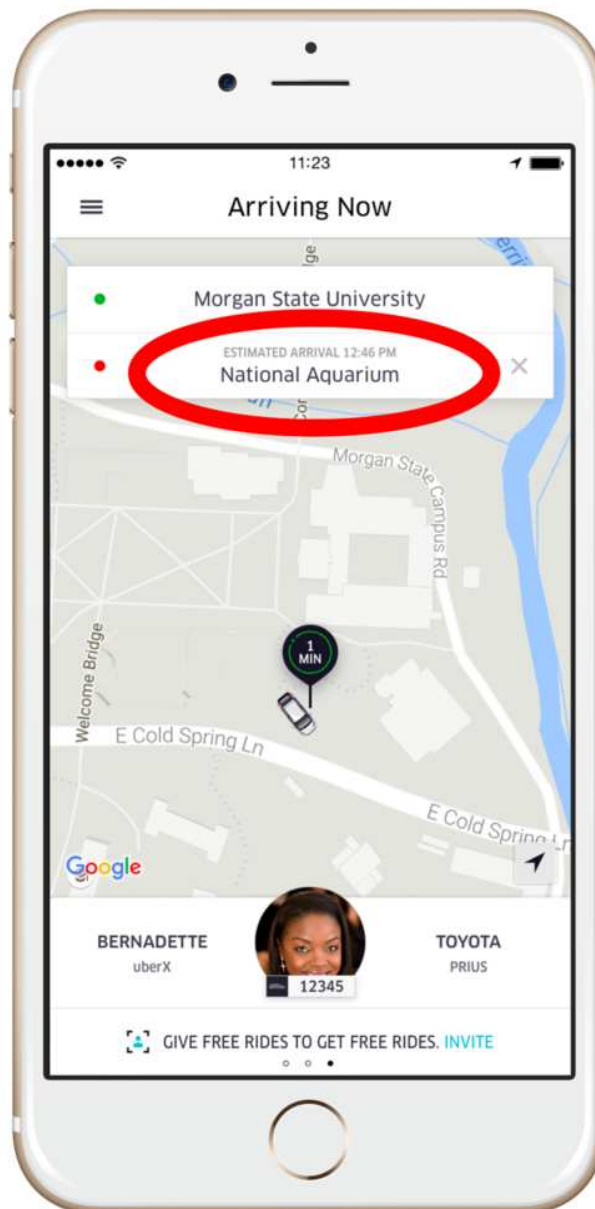
8 Riders also receive information to ensure transparency throughout the entire trip
9 experience. The Uber App uses GPS to allow riders to track their location live on a map,
10 so that they always know where they are and if they are on the right route.

11 Riders can also enter destination information before the trip begins. Exhibit JS-10
12 displays where the rider may input the destination information, and Exhibit JS-11 shows
13 how riders may update destination information during trips.

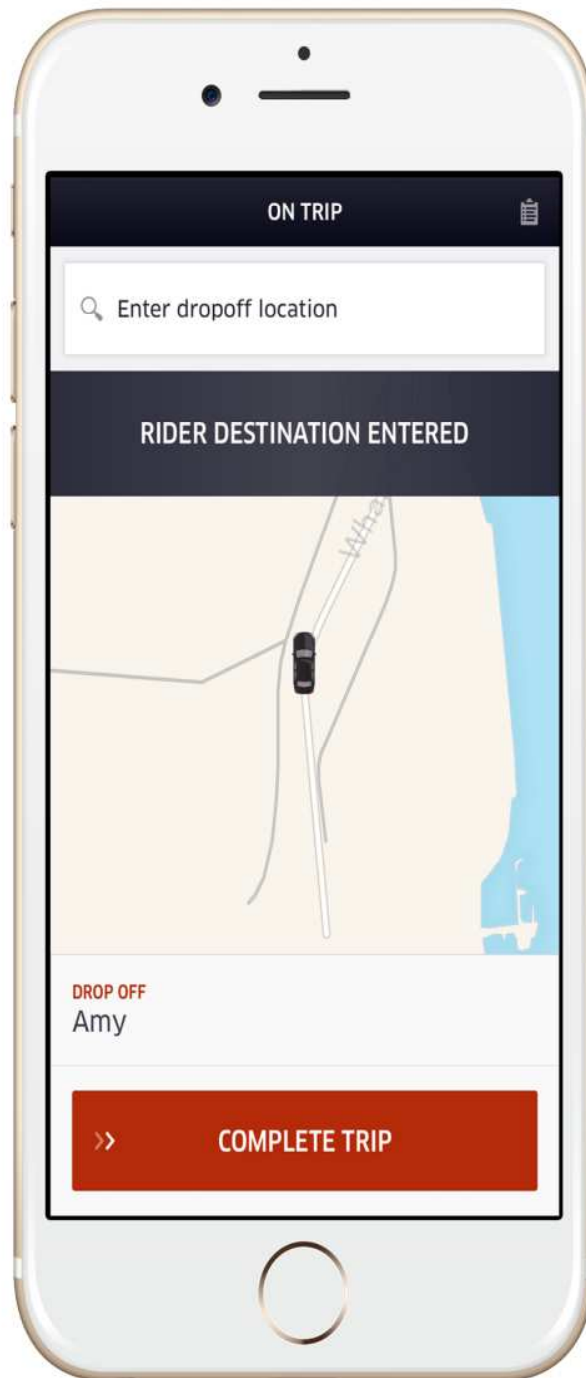




1 If the rider does not know the exact address of the destination, he or she can just enter the
2 name of the business or building and the address field will be populated automatically in
3 the Uber App, as demonstrated in Exhibit JS-12.



1 After the trip begins, the Uber App notifies the driver when the rider inputs destination
2 information and automatically generates a set of driving directions for the driver to
3 follow, as demonstrated in Exhibit JS-13.



1 This keeps the driver accountable to the rider and provides the rider with peace of mind
2 that the partner is taking an efficient route.

3 In addition, riders can contact customer support through the Uber App directly or
4 through the Uber.com website at any time. Rasier also has established a 1-800 telephone
5 number in Maryland that connects riders and drivers who need urgent assistance with a
6 live representative.

7 **Q: Do safety features end when the trip ends?**

8 A: No. Additional safety features are available after the trip, including a feedback
9 mechanism, the retention of detailed trip records, and 24-hour customer support by which
10 Rasier responds to, and investigates, any inquiries or concerns. In addition, Uber
11 employs Outreach and Law Enforcement Response Teams comprised of trained
12 professionals, including former law enforcement officers, who work to facilitate
13 cooperation between the community, law enforcement, and Uber.

14 **Q: What mechanisms does the Uber App have that enable riders and drivers to**
15 **provide feedback about one another?**

16 A: Riders and drivers are able to rate each other and provide feedback after every
17 ride. Exhibit JS-14 shows the feedback options available to a rider who rates a driver
18 poorly, including the option to give extra comments.

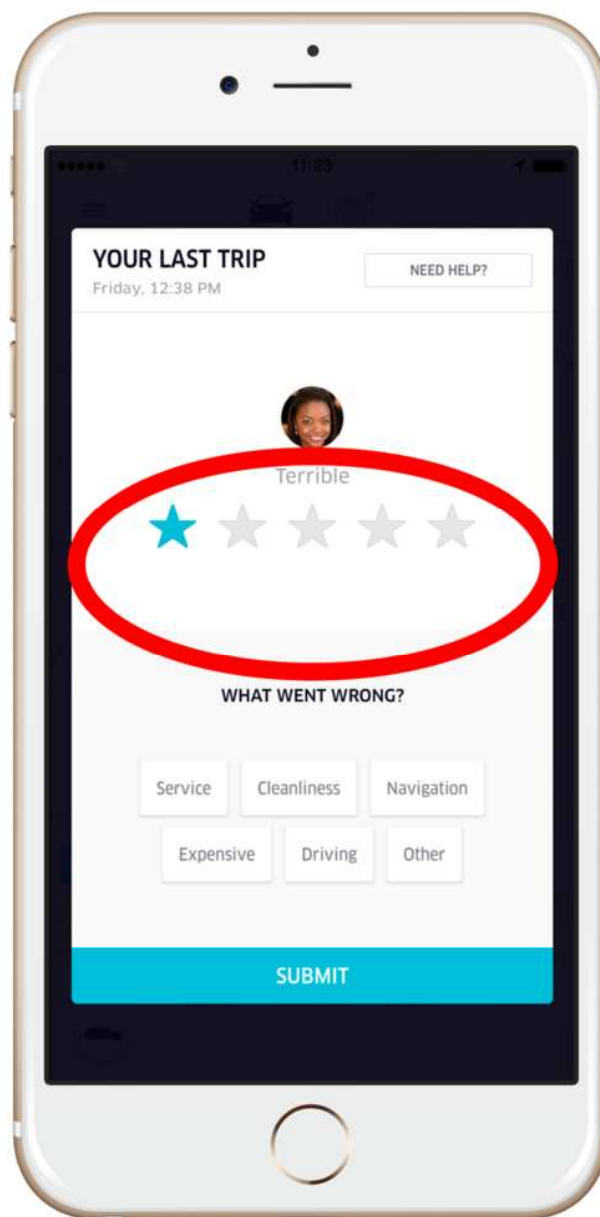


Exhibit JS-15 shows the screen that appears for a rider who rates a driver well; an open-ended comment box is available in those situations, as well.

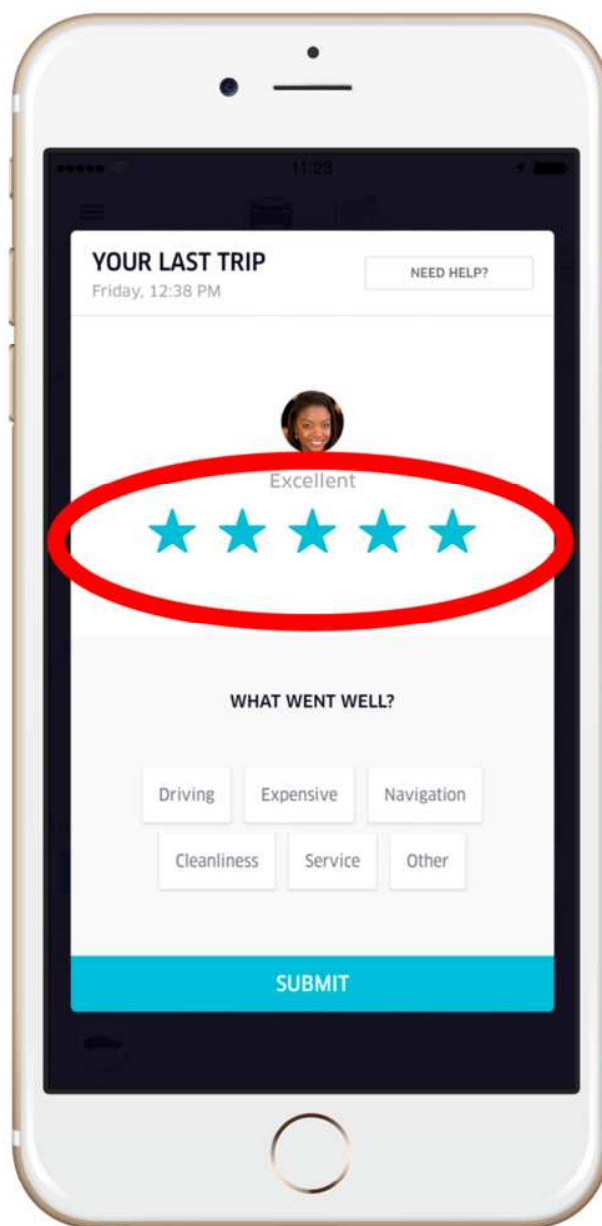
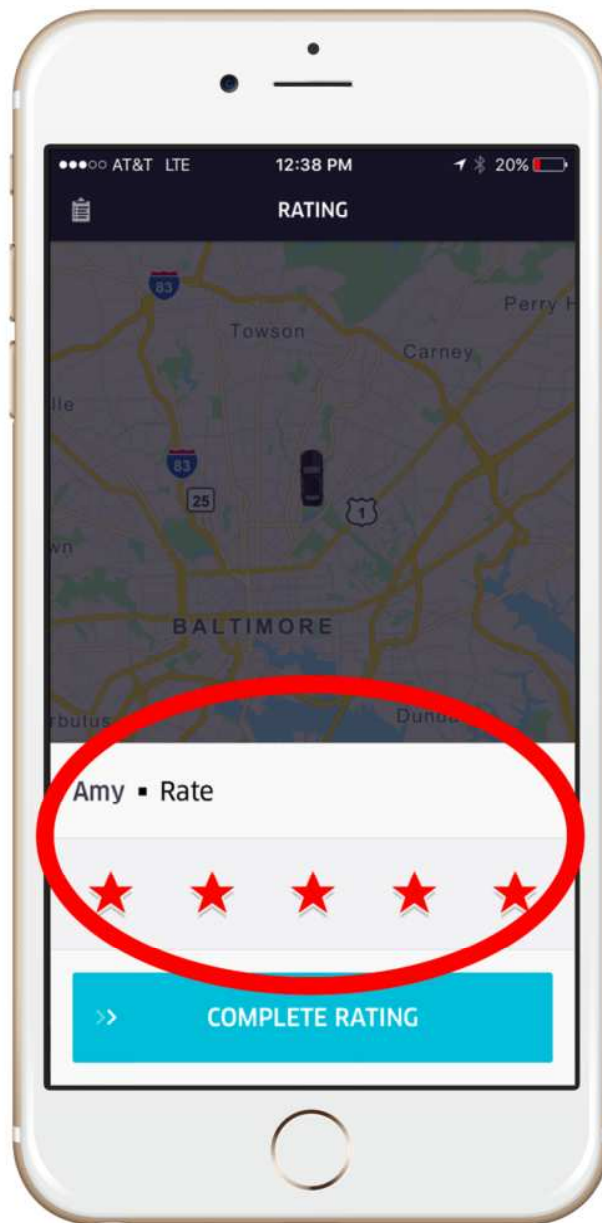


Exhibit JS-16 shows the screen that appears for a driver rating a rider.



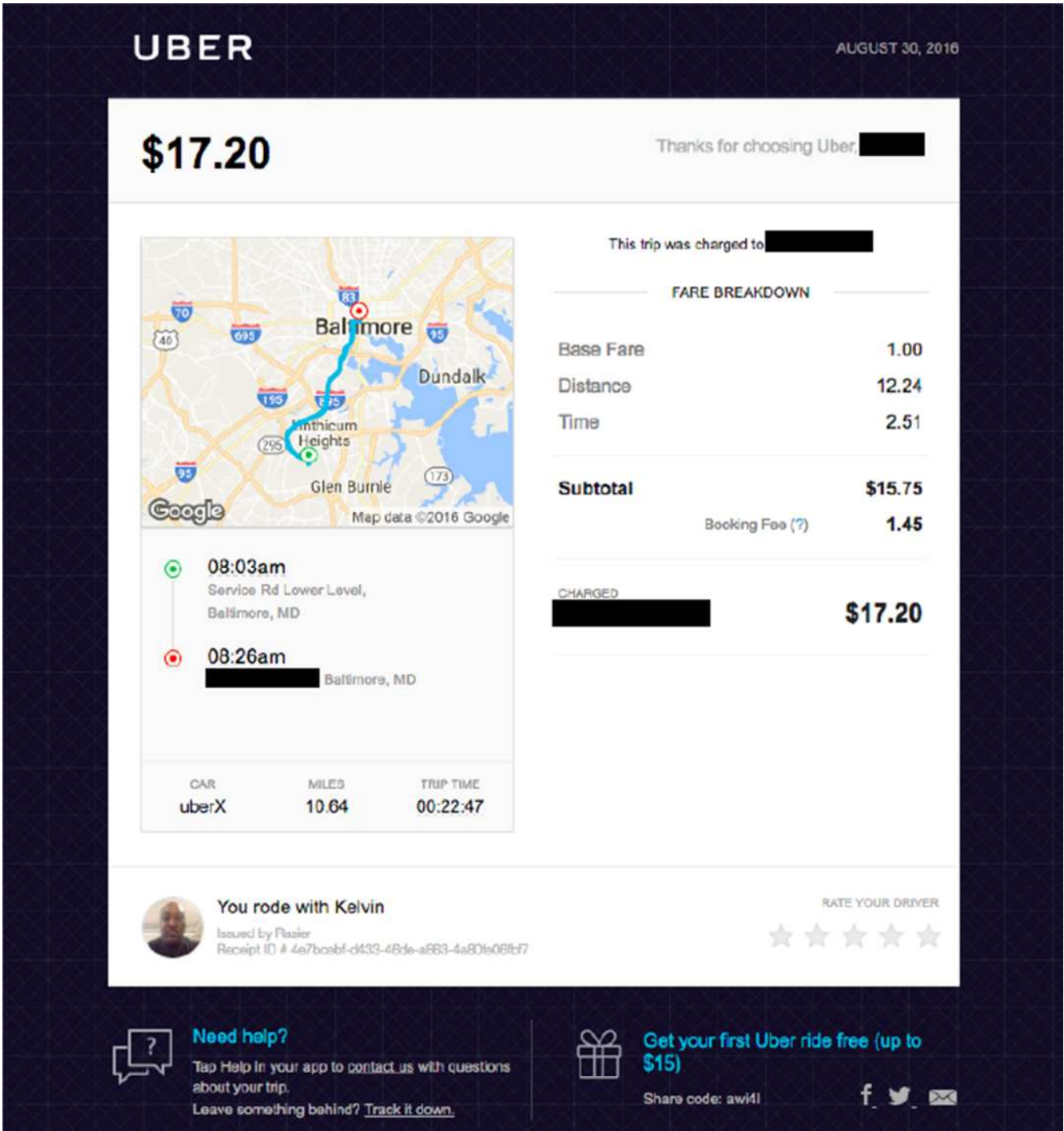
Q: How do these feedback mechanisms increase safety?

A: Having feedback for every trip turns every ride arranged via the Uber App into a constant quality checkpoint. Rasier monitors rider and driver feedback to ensure a high quality of service and to promote safety for both drivers and riders. If there are any

1 issues, Rasier can investigate and respond quickly. Rasier takes post-ride feedback
2 seriously and can deactivate a driver's or rider's accounts if the driver or rider has
3 violated Rasier's Community Guidelines or Terms of Use, respectively. See Exhibit JS-
4 17, Driver Deactivation Policy (July 2016) *available at*
5 <https://www.uber.com/legal/deactivation-policy/us/>.

6 **Q: What type of trip records are available after a trip is over?**

7 A: Rasier retains detailed information about every trip and makes this information
8 available to riders. After the trip is over, riders receive a detailed receipt that includes the
9 driver's name and photograph, the fare amount, a map depicting the specific route taken,
10 the time and date of the trip, and the amount of time and distance traveled. A sample
11 receipt is available at Exhibit JS-18.



A rider can access his or her trip history both in the Uber App and by logging onto the website.

1 In the event of a complaint from a rider or driver, Rasier can review the relevant
2 trip information to confirm the feedback. For example, if needed, Rasier and its affiliates
3 could quickly provide law enforcement with critical information to aid an investigation.
4 As I mentioned previously, we have a team of former law enforcement professionals who
5 are on call to work with police at any time to respond to urgent needs and explain to law
6 enforcement how we can assist in an investigation.

7 **Q: How do these records and procedures increase safety?**

8 A: By monitoring and tracking all trips, and providing multiple means of ongoing
9 communication and feedback, the Uber App keeps both riders and drivers accountable for
10 their actions. The knowledge that rides are tracked—and that a perpetrator (whether
11 driver or rider) will very likely be identified—deters criminal activity and other bad
12 behavior. This feature provides a strong layer of accountability for both drivers and
13 riders.

14 **Q: What are the different ways that a rider or a driver can reach a customer**
15 **service representative?**

16 A: A rider or driver can reach a customer service representative by simply leaving
17 feedback in the Uber App after a trip is over. Rasier and its affiliates work with a team of
18 customer support representatives that are available every hour of every day to respond to
19 customer inquiries.

20 As with rider and driver feedback, customer support staff is ready to respond to
21 any queries from riders and driver-partners 24 hours a day, 365 days of the year. For
22 urgent issues, there is a dedicated incident response team. As I previously testified,
23 Rasier has established a 1-800 telephone number in Maryland that connects riders and

1 drivers with a live representative. If, through any of these mechanisms, Rasier or its
2 affiliates were to receive a report that a driver has acted dangerously or inappropriately,
3 Rasier has the ability to suspend that driver's account immediately, preventing him or her
4 from receiving trip requests on the platform while Rasier conducts an investigation.

5 **Q: What new technologies is Rasier exploring to further enhance trip safety?**

6 A: Beyond the monitoring efforts discussed above, Rasier and its affiliates continue
7 to pilot new technologies to address safety, including a "Realtime ID Check" feature that
8 randomly checks the driver's photograph on file against a self-photograph (a "selfie")
9 taken by the driver immediately before being able to log-in to receive and accept ride
10 requests. This helps to ensure that the driver conducting the pickup is, in fact, the driver
11 with whom Rasier has contracted and on whom an extensive background check has been
12 performed. Rasier has implemented this feature in Baltimore and the surrounding
13 suburbs.

14 Rasier and its affiliates are also conducting pilots that use smartphone technology
15 to ensure safe driving. These include a daily report to drivers about how their driving
16 patterns compare to other drivers in their city, and suggestions on how to provide a
17 smoother, safer ride; messages in the driver app informing drivers that mounting their
18 phone on the dashboard is safer than holding the phone in their hands; and a display in
19 the app that alerts a driver to the speed of his or her vehicle. *See Exhibit JS-19, New App*
20 *Features and Data Show How Uber Can Improve Safety on the Road (June 2016)*
21 *available at <https://newsroom.uber.com/safety-on-the-road-july-2016/>.*

22 **III. Maryland Background Check Procedures**

23 **Q: How many trips has Rasier facilitated in Maryland?**

1 A: In the past two years, Rasier has facilitated over 10 million trips in Maryland. We
2 facilitate tens of thousands of safe trips every day in the State.

3 **Q: Are you familiar with background check requirements for transportation**
4 **network company operators (“TNOs”) under Maryland law?**

5 A: Yes.

6 **Q: Does Rasier’s current background check process comply with Maryland**
7 **law?**

8 A: Yes. Rasier and its driver-partners operating in Maryland comply with
9 Maryland’s current background check requirements. We have partnered with Checkr,
10 Inc., a nationally-accredited third-party professional background screening agency to
11 create an extensive picture of an applicant’s background. Checkr conducts criminal
12 background checks and driving history checks on all individuals who apply to partner
13 with Rasier in Maryland. As required by Maryland law, Checkr completes a multi-part
14 criminal background check that includes a national criminal history search, a review of
15 sex offender registries, including the United States Department of Justice’s National Sex
16 Offender Website, and a review of the applicant’s driving history.

17 **Q: How does Rasier’s process verify an applicant’s identity?**

18 A: Rasier collects personally identifying information and documents from new
19 applicants. In particular, Rasier collects from the applicant a photograph, his or her full
20 name, address, email address, date of birth, and a copy of the applicant’s driver’s license,
21 personal motor vehicle liability insurance, vehicle registration, social security number,

1 and bank account information.¹ The documents that each applicant submits are reviewed
2 by trained professionals to look for signs of tampering and to confirm that the
3 information on the different documents—driver’s license, vehicle registration, insurance
4 card, vehicle inspection form—match. Rasier also inspects the photographs uploaded by
5 the driver applicants for the driver profile that appears on the Uber App to confirm that
6 the photo matches the applicant’s submitted driver’s license.

7 Rasier relies on the submission of a driver’s license as proof of identity because a
8 driver’s license is the primary government-issued document that is used for proof of
9 identity in the United States. Rasier also places confidence in Maryland-issued driver’s
10 license because Maryland is in full compliance with the REAL ID Act. The REAL ID
11 Act sets strict verification standards for states to ensure the reliability and accuracy of
12 state-issued driver’s licenses.

13 If preliminarily approved by Rasier, and with the applicant’s approval, a subset of
14 the information collected by Rasier is submitted to Checkr, which then conducts
15 extensive identity validation and investigation of the applicant. Bon Idziak explains
16 Checkr’s process in his testimony.

17 Rasier is able to leverage its technology in a number of ways to help ensure that
18 the person behind the wheel is the approved account holder. As described earlier in my
19 testimony, a rider is able to view a driver’s photograph on the rider’s Uber App when the
20 rider requests a trip. If the photograph does not match the actual driver, the rider can
21 quickly notify Rasier through a variety of means, including directly through the App.

¹ United States regulations require covered financial institutions to adopt due diligence procedures to identify and verify a legal entity customer’s beneficial owner at the time a new account is opened and to conduct due diligence on individuals seeking to open bank accounts in the United States. *See* 31 C.F.R. § 1010, 1020, 1023, 1024, and 1026.

1 Rasier has procedures in place to immediately deactivate the driver's account upon notice
2 of such improper account use. Rasier conducts an investigation before allowing the
3 driver to accept any additional trip requests. In addition, Rasier has implemented a self-
4 photograph pilot program in Baltimore and the surrounding suburbs, which randomly
5 cross-checks the photograph on file against a "selfie" taken by the driver immediately
6 before the driver logs on to the app to receive and accept trip requests.

7 **Q: Is Rasier involved in the background check process in any other way?**

8 A: Yes. After Checkr completes its background check, Rasier personnel reviews the
9 background check of each Maryland applicant to determine whether the applicant has
10 driving or criminal history that should preclude them from operating as a driver. While
11 many states have set forth objective disqualification criteria in their TNC statutes and
12 regulations, the Maryland legislature and the Commission have not done so. Rasier has
13 called on the Commission's Transportation Division to establish public guidelines that
14 are consistent with Maryland's policy of reducing barriers to employment and
15 occupational licensing for individuals with non-violent criminal history.² The
16 Transportation Division currently uses its own internally developed, non-pubic
17 guidelines, which contain license disqualifications for non-violent crimes such as
18 receiving cable television services without payment, writing a bad check, fraudulently
19 receiving food stamps, and trespassing. In addition to these offenses being seemingly
20 unrelated to an applicant's fitness to be a TNO, they run counter to state and federal

² See Exhibit JS-20, Rasier Letter to PSC (Aug. 25, 2016); Exhibit JS-21, Transportation Division Criminal Guidelines (sent to Rasier on Aug. 30, 2016).

1 initiatives, *e.g.*, the Fair Chance Business Pledge,³ to remove obstacles from the pathway
2 of individuals with criminal records, who already have paid their debt to society and wish
3 only to become gainfully employed.

4 In Maryland, Rasier requires Checkr to conduct an indefinite look-back for
5 convictions and disqualifies applicants based on its standard criteria, which it has
6 developed over the course of several years with input from law enforcement and social
7 justice organizations.⁴ This objective criteria requires disqualification of applicants who
8 have committed any felony or other serious crime, such as a DUI, within the last seven
9 years and disqualifies applicants who have ever committed certain serious crimes, such as
10 murder or sexual assault. In fact, Rasier's driving standards are so high that, in
11 Baltimore, 98.9% of those applicants who are rejected by Rasier are rejected in the early
12 stage of the background check based upon their driving records. Throughout Maryland,
13 99.7% of Rasier driver-partner applicants who are rejected are rejected at this stage.

14 Rasier has a dedicated team that conducts these reviews. That team has received
15 specific training on how to review background check reports and apply Rasier's criminal
16 offense adjudication criteria. If a question arises about the applicability of a certain
17 offense, Rasier's legal team provides guidance.

³ On April 11, 2016, Uber along with companies, including The Johns Hopkins Hospital and Health System, Under Armour/Plank Industries, American Airlines, The Coca-Cola Company, Facebook, Georgia Pacific, Google, Koch Industries, PepsiCo, Prudential, Starbucks, Unilever and Xerox, signed the Obama Administration's Fair Chance Business Pledge, committing themselves to providing "individuals with criminal records, including formerly incarcerated individuals, a fair chance to participate in the American economy." <https://www.whitehouse.gov/the-press-office/2016/04/11/fact-sheet-white-house-launches-fair-chance-business-pledge>

⁴ In order to ensure consistency across the Washington, D.C. Metropolitan Area, including Virginia, which requires by law an indefinite look-back for certain violent convictions, Rasier has directed Checkr to apply an indefinite look-back to all Maryland applicants.

1 **Q: Are you aware that effective December 15, 2016, the Maryland Public**
2 **Service Commission may require Rasier to implement a new fingerprint-based**
3 **background check procedure?**

4 A: Yes.

5 **Q: Why is Rasier petitioning the Commission for a waiver of supplemental**
6 **fingerprint-based background checks in Maryland?**

7 A: Rasier is concerned about the safety of each and every rider. Our job is to
8 identify and implement effective tools that minimize risk to the riding public. That is
9 why Rasier invests in innovative technologies that enhance safety at every step of a
10 rider's trip and contracts with Checkr to conduct a rigorous background check on each
11 potential TNO. Rasier's background check procedures are being used in Maryland and
12 elsewhere to effectively screen hundreds of thousands of drivers who complete millions
13 of safe trips every year. Right now, there are thousands of Rasier driver-partners safely
14 and successfully operating in Maryland. These people are engaging in honest, lawful
15 work to help support themselves and their families.

16 The simple truth is that requiring TNOs to undergo an additional fingerprint-
17 based background check would not increase safety for Marylanders, but likely would
18 impose considerable harm on individuals who wish to earn income as TNOs in Maryland.
19 First, the databases that are checked with fingerprint-based background checks have been
20 shown to be incomplete for the purpose of providing the relevant criminal history. In
21 particular, the FBI's database lacks disposition information (whether someone was

1 acquitted or convicted of the charge) for over 50% of the records in that database.⁵
2 According to the Maryland statute and regulation, the Commission is supposed to issue a
3 TNO license unless the results of the background check show that the applicant has been
4 convicted of a crime or driving offense that bears a direct relationship to the applicant's
5 fitness to be a for-hire driver.⁶ So, more than half of the time, the FBI's database does
6 not have the only criminal record information that can be used to deny an application.
7 Rasier relies on the actual court records—the most comprehensive and accurate source of
8 information about criminal case dispositions, including convictions.

9 The incomplete nature of these fingerprint databases can have discriminatory
10 impacts. When records are incomplete or inaccurate, potential drivers who were never
11 charged with, or convicted, of a crime are more likely to be precluded from job
12 opportunities. When the Transportation Division reviews a rap sheet showing relevant
13 arrest history without disposition data, the Division requires the applicant to provide a
14 certified court record or other evidence showing that applicant was not convicted.⁷ In
15 effect, the Division places the burden on the applicant to prove his or her innocence. At
16 the very least, the Division delays granting the permanent licenses based upon arrests
17 unless and until the applicant can prove a negative – the lack of a conviction. It is an
18 unfortunate truth that members of racial minority communities in the United States have
19 been arrested at disproportionate rates.⁸ The statistics bear this out—for example, nearly
20 50% of African-American men are arrested by age 23, compared to 38% of white males

⁵The Attorney General's Report on Criminal History Background Checks (2006) at 18
available at http://www.bjs.gov/content/pub/pdf/ag_bgchecks_report.pdf.

⁶Md. Code Ann., Pub. Utils. Art. § 10-104; COMAR 20.95.01.21 (F).

⁷March 2015 Transcript, Koerner Testimony.

⁸Crime in the United States 2014, Table 43A, FBI Uniform Crime Reporting *available at*
<https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/>.

1 in the same age group.⁹ A significant number of arrests never lead to convictions. This
2 means that the wrong background check procedures, including fingerprint-based
3 background checks, which frequently do not contain disposition information, may
4 unnecessarily prevent minority applicants from earning income as TNOs in Maryland.

5 Second, obtaining a fingerprint-based background check is burdensome. In
6 Maryland, it costs over \$50.00 to submit fingerprints and obtain a full FBI and state
7 background check. Fingerprint-based background checks also require individuals to
8 travel to LiveScan centers that may not be conveniently located or open during times
9 when a prospective driver is not working another job or taking care of other full-time
10 responsibilities.

11 We believe that the background check requirements for drivers should effectively
12 address public safety while affording everyone a fair chance to earn income as a driver.
13 Fingerprint-based background checks are not a logical or effective solution to the safety
14 challenges facing TNCs.

15 **Q: Does Rasier operate in any markets in the United States that require drivers**
16 **to obtain a fingerprint-based background check?**

17 A: Rasier operates its TNC services in only one market in the United States that
18 requires drivers to obtain a fingerprint-based background check: Houston, Texas.¹⁰

⁹ See Study: Half of Black Males, 40 Percent of White Males Arrested by Age 23, EurekaAlert! (Jan. 1, 2014) available at http://www.eurekaalert.org/pub_releases/2014-01/uosc-sho010314.php; see also Robert Brame, PhD, et al., Cumulative Prevalence of Arrest From Ages 8 to 23 in a National Sample, Pediatrics (January 2012) available at <http://pediatrics.aappublications.org/content/129/1/21>.

¹⁰ New York City is the only major city in the United States in which Uber App service is available, but traditional TNC service is not offered. Instead, the Uber App connects riders with a commercial black car product that is equivalent to a for-hire livery product.

1 Rasier has operated in that market with a fingerprint-based background check
2 requirement since 2014. Rasier, however, recently had to announce that it would cease
3 operations in Houston unless the City reforms its regulations for transportation network
4 company drivers, including removing its fingerprint-based background check
5 requirement. Rasier has decided that it must cease operations in the Nation's fifth largest
6 city because the databases that are checked in connection with fingerprint-based
7 background checks have documented flaws and the City's regulations have substantially
8 degraded Rasier's ability to provide the economic opportunities to persons who want to
9 work. They also have prevented the access to safe, reliable, and affordable transportation
10 for riders that Rasier is able to provide elsewhere in the United States. *See Exhibit JS-22,*
11 *The Cost of Houston's Ridesharing Regulations (April 2016) available at*
12 *[http://2q72xc49mze8bkcog2f01nlh-wpengine.netdna-ssl.com/us-texas/wp-](http://2q72xc49mze8bkcog2f01nlh-wpengine.netdna-ssl.com/us-texas/wp-content/uploads/sites/381/2016/04/Cost-of-Houstons-Ridesharing-Regulations-Report.pdf?_ga=1.81717335.1544370365.1419391081)*
13 *content/uploads/sites/381/2016/04/Cost-of-Houstons-Ridesharing-Regulations-*
14 *Report.pdf?_ga=1.81717335.1544370365.1419391081* (detailing how Houston's
15 regulations have impacted the service).

16 In addition to Houston, the City of Austin, Texas imposed a fingerprint-based
17 background check requirement on transportation network operators earlier this year.
18 Consequently, Rasier immediately ceased all operations in that City after the law went
19 into effect. Rasier hopes to avoid a similar outcome in Maryland.

20 **Q: Does this conclude your direct testimony?**

21 A: Yes.