



# PBOT

PORTLAND BUREAU OF TRANSPORTATION

1120 SW Fifth Ave, Suite 1331, Portland OR 97204

Main: 503-823-5185 TTY: 503-823-6868 Fax: 503-823-7576 [Portland.gov/Transportation](http://Portland.gov/Transportation)

Jo Ann Hardesty Commissioner Chris Warner Director

## TNC DRIVERS ADVISORY COMMITTEE MEETING SUMMARY FINAL

April 12, 2021 • 3:30 PM – 5:15 PM

Zoom Call

Advisory Committee Members	Organization	Present
Mark Williams	Regulatory Division Mgr., PBOT (non-voting member)	Yes
Alma Raya, Vice Chair	At Large Member of the Public & Acting Chair	Yes
Jeremiah Renfrow	At Large Member of the Public	Yes
Chuck Coleman	At Large Member of the Public	Yes
Alan Doud	TNC Driver	Yes
Richard Rohrich	TNC Driver	Yes
Owen Christofferson	TNC Driver	Yes
Keenan Browe	TNC Driver	Yes
Vacant	TNC Driver	NA
Vacant	TNC Driver	NA
Sally LaJoie	Ombuds Team, LaJoie Mediation and Consulting, LLC	Yes
Hank Kaplan	Ombuds Team, Bennett Hartman Attorneys at Law, LLP	Yes
Leah Bazzani	Ombuds Team, Bennett Hartman Attorneys at Law, LLP	Yes
Eliot Rose	Technical Advisory Panel, Metro	No
Debbie Brooks	Technical Advisory Panel, Port of Portland	No
Caleb Weaver	Technical Advisory Panel, Uber	Yes
Anna Richter Taylor	Technical Advisory Panel, Uber	Yes
Richard Fedesco	Technical Advisory Panel, Moda Center/Trailblazers	No
Ken Puckett	Technical Advisory Panel, Providence Park/Portland Timbers	No
Dave Benson	PBOT Parking Group Manager	Yes
Saffy Chan	PBOT Regulatory Division, Office Support Specialist II	Yes



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Tracy M. Smith, Facilitator	Inhance LLC	Yes
Jamie Lynne K. Souza, Recorder	Inhance LLC	Yes

**Other Attendees:** Duane Hanson, TNC driver; Haris Rashid, TNC driver; Hays Witt, Drivers Seat Cooperative; Chad Derrington, TNC driver; Michelle Plambeck, Strategies 360; Sam Cho, Public Policy Mgr Lyft; Brittany Anthony, Woman’s Safety Policy Uber; Elizabeth Gallagher, Compliance Mgr Lyft; Mohammed Azharuddin, TNC driver; Unidentified driver.

### WELCOME AND INTRODUCTIONS: TRACY M. SMITH, FACILITATOR

- Tracy called the meeting to order at 3:33 PM.

### ANNOUNCEMENTS FROM COMMITTEE MEMBERS: TRACY M. SMITH, FACILITATOR

- No Announcements.

### APPROVAL OF 02/08/2021 MEETING SUMMARIES: TRACY M. SMITH, FACILITATOR

- No revisions or objections were made to the February 08, 2021, Meeting Summary.

**VOTE:** Unanimous approval.

**ACTION:** No action taken.

### GENERAL UPDATES FROM TECHNICAL ADVISORY PANEL: TRACY M. SMITH, FACILITATOR

- No Comments.

### PBOT PROGRAM UPDATES: MARK WILLIAMS, PBOT

- Welcome to the newest members of the Committee.
  - Owen Christofferson: Owen has been an Uber/Lyft driver since 2015 and experienced both positives and negatives of a driver. He’s interested in transportation issues and has been accepted into the



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Portland State Master of Urban and Regional Planning program, where he will get an Urban Planning degree with a focus on Transportation.

- Richard Rohrich: Richard has been a Rideshare driver since August 2015 driving a wheelchair van in Portland. He's seen changes since the market has developed and has a good idea of the issues an average driver faces.
- Keenan Browe: Keenan has been a TNC driver since 2016 and drives late nights, which has less traffic. However, rides at night are less straightforward than daytime rides. There have been challenges, but this last year has been interesting with the most challenging experiences.
- Permit and Certification Applications
  - This mainly applies to companies that self-certify their drivers, such as Uber, Lyft, and other PFHT companies. This went into effect on April 5, 2021, where drivers need to submit their correct address to receive permits from PBOT. If a driver's permit is undeliverable, then the driver's permit will be canceled. The company would have to re-submit documents, which could result in being off the platform for some time. Mark encourages all drivers to check their apps or check with their company to make sure their address is correct.
- Vice-Chair Nomination
  - We will be accepting nominations for the TNC Drivers Advisory Vice-Chair position. All Committee members will be able to either nominate themselves or a fellow Committee member. At a future meeting, we will hold an election process and vote on those nominations. Please submit your nomination directly to the facilitator, Tracy M. Smith.

### OMBUDS REPORT UPDATE AND HIRE RIGHT: SALLY LAJOIE, OMBUDSPERSON

This is an update from the Ombuds office, but not a Quarterly Report. Since the last report, 22 complaints were filed:

- 5 complaints about compensation
- 2 complaints about damages
- 9 complaints about deactivations or suspensions
- 1 complaint regarding insurance
- 1 complaint regarding PBOT
- 3 complaints relating to safety
- 1 complaint about technology/app issues.



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Since the end of January 2021, 15 complaints have been resolved:

- 2 complaints were driver withdraws
- 3 complaints were neutrally closed
- 5 complaints were satisfactory for the drivers
- 5 complaints were sent to arbitration or referred to small claims court.

We received an interesting, yet different complaint regarding damages from the ice storm where the driver was frustrated. They had to pay the \$1,000 deductible. There were a few complaints about CDL/DMV issues, with a re-opened complaint regarding deactivations and Hire Right. A couple of complaints were for app malfunctions, where a driver lost the canceled ride amount and it was changed, but the driver also felt someone was using technology to override the location in the app. That driver reported it hoping the company would want to know the app was either being hacked or gamed. Here were other complaints about a license, one complaint about masks, and an unusual complaint stating Portland was too dangerous to drive in which included the protests last year.

- Jeremiah Renfrow: Regarding the ice storm complaint, why would the driver think they didn't have to meet their deductible? The damage was from the weather, not another driver.
  - Sally LaJoie: Yes, and there was nothing we could do because they have a contract. The driver was hoping the company would recognize their efforts of helping people get to and from dangerous conditions. However, the company was correct in interpreting their agreement, but the drivers were frustrated. Unfortunately, drivers don't realize this until they encounter the deductible and then get frustrated.
- Mark Williams: Regarding the driver danger safety issue, PBOT has worked closely with Uber, Lyft, and the PFHT companies in the past. When we are aware of issues Downtown, PBOT notifies the companies so they can message their drivers or build a geofence so drivers avoid picking up in those danger zones. Therefore, PBOT does have a plan that's worked effectively in the past and we'll continue to watch as we execute that plan going forward.

### HIRE RIGHT DISCUSSION

- Sally LaJoie: Several weeks ago, the TNCs updated the Ombuds office with a new industry information-sharing place that was publicly announced via press releases and statements. It's designed to provide safety to the public, where reports of certain groupings are shared between companies through a third party called Hire Right. To create these categories, they've worked closely with victims, support networks, and organizations. So, if a driver's conduct is within one of the categories it will be reported, and if found substantiated, it will be reported to Hire Right, and the driver deactivated from both platforms. The Ombuds office doesn't usually have the information needed from companies to verify or



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view complaints, and we often hear only the driver's perspective. And when a driver disputes the accuracy of a rider's complaint, they will sometimes continue driving for the other company. However, this will no longer be the case for the narrow category of extreme complaints.

We did ask how people can dispute a complaint when they're transitioning between the two companies. They'd need to file an appeal with HireRight within a certain number of days, stating they dispute the report. Most of the time, they'll end up with a complaint filed in both Uber and Lyft. The companies use the same investigatory methodology, so they trust and rely on the other platform's investigations enough that they would also deactivate the driver from their platform. The categories include physical assault, fatalities, non-consensual touching of a sexual body part, non-consensual kissing of a non-sexual body part, non-consensual kissing of a sexual body part, attempted non-consensual penetration, and non-consensual sexual penetration. These are very extreme complaints and drivers don't always report or know all the details, but we have not had many in these categories so this is a different realm for us.

- Jeremiah Renfrow: Are they outsourcing their investigative process to HireRight or is it an internal investigation and they report that information?
- Sally LaJoie: Their internal investigation gets reported.
- Brittany Anthony: Brittany worked closely in building that program and it is limited to murder and the most extreme forms of sexual assault or rape. HireRight matches an identity, so John Smith is reported with a social security number, driver's license number, and VIN. HireRight then has the information from both companies to identify and deactivate the correct John Smith from the other company. HireRight does not investigate but does identity matchmaking to ensure we're doing our due diligence.
  - Owen Christofferson: How long do drivers have to appeal? Is there a limit on how long a passenger has to make a report?
  - Brittany Anthony: A driver will receive an adverse action letter from HireRight with details on how to dispute their identity or the validity of the complaint and has 10 days after that to appeal. Particularly for sexual assault, there is no limit to when a rider or driver needs to make a complaint about a safety incident because it can take time before victims feel safe and open to discuss their experience. We never have any limits on when someone wants to file a report. For instance, it's rare, but a report could be filed a year later.

**DEACTIVATED OR LOST ACCESS TO DRIVERS (OMBUDS AND TNC INVESTIGATION PROCESS): MARK WILLIAMS, PBOT**



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- Mark Williams: Our Acting Committee Chair, Alma Raya, will decide if she wants to take action on this item or not. This topic has been in discussion for a long time and everyone involved has worked hard to come to an agreement or arrangement for all parties. Every case is unique, and our stakeholders have their set of concerns. However, PBOT has worked hard to present this today. All members have received a 17-page document that shows suggestions from Uber, Lyft, the Ombud's Office, and the Committee Acting Chair, Alma Raya.
- Sally LaJoie: We have all come a long way and even with four different proposals to review, we have reached some agreement. In the proposals, companies propose to participate in the process, except for Lyft's proposal of being voluntary rather than obligatory. Therefore, companies would participate in dispute resolutions with the Ombuds office, respond to complaints, review the Ombuds team's information, and meet and discuss when needed. It also confirms the Ombuds office is not subject to public records disclosures, which means the information stays within the Ombuds office to protect the privacy of drivers and riders from that kind of disclosure.
- However, we're now left with this balance of due process for the drivers and the security of the platform, community, and the rider. We want to be clear, not every issue is a rider complaint in a dangerous situation. These categories are regular complaints from anyone or an action from a company, where the Ombuds office reviews the investigatory file. It's easy to get caught up on rider safety, what can be communicated, and what's safe. However, the Ombuds Office is seeking the ability to look over a file, an investigation, and be able to answer questions a driver has from a complaint. The list of concerns from Lyft is the safety of the driver and community, the time and expense of compiling this information, and getting it to the Ombuds office. Uber's concerns also include security of the driver, public records, and a proposal that limits disclosure to the Ombuds more than we'd like. To meet those interests, we've broken this into two separate situations. First, there's information received from the TNCs that the Ombuds can investigate. Secondly, information that could be communicated to a driver, but severely limited or rarely provided under our proposal. The Ombud's main issue is the limited information they can ask a driver regarding a driver complaint since they don't see the investigation file or much of any information, which makes it hard to do an investigation.
- Under our proposal, all identifying information would be redacted unless there was an express agreement with the company, and the information would never go to a driver if it was a rider complaint. In rare situations of sexual assault, misconduct, or physical assault, we would contact the company to see if there was a safe way to talk to the rider. Each year, our team would undertake the same training as the TNC Safety Team to make sure we're respecting the platforms and how those work. We would also work only with the companies, and not reach out to the victim to interview or retraumatize them. There is no way to discuss this proposal without going there, so we want to pinpoint those isolated situations and ordinary situations that are important too. We want a balance between drivers, riders





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and, the companies, but also want to be able to answer driver's questions because they're not being heard. The Ombuds team receives questions from drivers such as "what's happened," "I don't understand," "why can't I have this information," "why won't anyone tell me what happened," "don't I have the right to confront my accuser," and "how am I going to make a living?" We'd like to be able to answer those questions because oftentimes drivers don't hear anything from the company and have no idea. Therefore, we want to find a balance where we can represent their interest to have some dispute resolutions with the companies. We're not looking to litigate every complaint. However, we struggle with basic investigations because it's difficult answering those questions when we're not given anything more.

- Caleb Weaver: We agree on most of this and agree the Ombuds program is a great model. They do want this program and like the idea of additional data sharing. Their primary reason why they were unable to provide additional information is there was no legal framework for the information to be protected. We're taking this same model to set up and work with other places as well. We're excited to get this in place and believe the fastest way may be for an agreement between the Ombuds Office and the company. If there's rulemaking he is happy to participate to get this moving because a framework ensures information is appropriately protected and their aim is for it to not be disclosed. They've worked through the challenges but want to make sure those extreme cases are handled appropriately to not risk further harm to any victim. Brittany will speak more about how we think of this and where our suggestions came from.
- Brittany Anthony: She leads Women's Safety Policy at Uber and tackles safety issues, such as how we protect driver safety. We do not have an isolated approach to safety or only focus on riders, but we are particularly concerned with a woman driving or anyone driving. Uber is the only rideshare that now requires riders to validate their identification if using an anonymous form of payment to hold them accountable if there's any wrongdoing either on the app or harm to the driver. We're committed to both driver and rider safety. Her role is to make sure survivors of sexual violence are adequately advocated for and protected once making a report. Our safety report of the most extreme cases of sexual violence shows half reports from riders and half from drivers, so this is not only a rider issue. What we want and where our suggestions came from is working many years with national and local victim advocacy organizations, where people who've worked with victims of rape and sexual misconduct every day have guided them on how to approach these issues. One of the main tenets is a survivor should be in control of who, when, and how they report their assault. We want to take information a driver has shared with Uber or Lyft very seriously and not disclose their story or identity with any party they have not consented to. It is a personal decision, whether they want to disclose it at all, and certainly not to an Ombuds or any official body that makes reports in a customer service capacity. Our basic principle is protecting information from survivors of sexual and physical violence and prefer not to share that



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information with the Ombuds office unless we ask the victim if they're okay and willing to talk to the Ombuds for further investigation.

### COMMITTEE DISCUSSION

- Jeremiah Renfrow: Sally, the information provided to the Ombuds organization is not available for public scrutiny?
  - Sally LaJoie: Yes, that's our understanding. We had a legal opinion that went to the City Attorney's office and believes we're all in agreement.
  - Caleb Weaver: Yes, he believes we're comfortable and would like to put that into the agreement.
- Jeremiah Renfrow: Caleb, did you say Uber is willing to do a direct agreement with the Ombuds office to put this plan in place?
  - Caleb Weaver: Yes, we believe that's the fastest way to move this forward.
- Jeremiah Renfrow: Brittany, regarding victim advocacy, if personal information like a name isn't being reported, do you think there's an issue reporting details of that incident reported by a rider with the Ombudsperson?
  - Brittany Anthony: We could reach an agreement and keep it vague enough to have some insight into what the incident was, such as sexual misconduct or sexual assault. However, we wouldn't go far into details due to anonymity concerns, the merits, and facts of an allegation that could give away someone's identity. But she believes in reaching a compromise on a general description of what's being alleged.
  - Jeremiah Renfrow: If the majority of issues reported to the Ombuds office are not sensitive, we could have a specific set of rules for those particular categories and those reported to HireRight in another separate agreement.
- Alan Doud: He has had incidents of suspension for safety issues, but the problem is being unsure what it's specifically for. He's had riders who've complained and lied about things and it bothers him not knowing the specifics since safety is very vague. If more information could be submitted, so if it's an error on the driver, then it can be worked on to correct or determine if it's a disgruntled person. He has a 5-star rating but gets the occasional suspensions and he's unsure if it's something he's doing. He is making this comment because drivers need more specifics than the word safety, which is too broad.
- Owen Christofferson: Does Uber or Lyft have any specific issues or points they'd like to raise with Alma's version of the proposal?





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- Caleb Weaver: We worked hard to get a good understanding with Sally and Leah, who we trust. We want to make sure the language accurately reflects that understanding and believe Alma’s version is getting at the same ideas of making it clear that victims, in the extreme cases, have provided consent to be contacted and information would not be shared unless in certain circumstances. It seems we’re circling the same ideas, but it’s getting the right language in place.
  - Brittany Anthony: The main point of our feedback is to be able to redact and withhold victim information from any sexual or physical violence claims until the Ombuds office expresses they need to talk to the victim, which would then be up to the victim if they are willing to talk to the Ombudsperson at that time.
  - Hank Kaplan: Related to these rare cases, with victims of attempted sexual or physical assault, besides taking the brave step to report it, they have a legitimate concern their identifying information is not shared with the person who victimized them. That can easily be accomplished without trying to curtail our ability to do an investigation. Under Alma’s proposed language, TNCs would be obligated to share information with the Ombuds program, who would not share any personally identifying information without expressed consent from TNCs because, for the most part, we can do an investigation without disclosing that information. There may be occasions the Ombuds office wants to speak to the victim to understand any discrepancies. However, we’d never share their information with the driver. Therefore, this concern about sharing information with the Ombuds team is overblown.

His next point of concern, which he was surprised to see was expressed from Lyft as they have not been active in this proposal process. Lyft complains that it’d be a heavy, administrative burden to generate the information the Ombuds office is requesting. However, the requested information is based upon their decision. Unless Lyft throws out information it should be readily available since it helped them make their decision. Now if they don’t have that information to make a decision, then that is relevant information for us too. Therefore, I give no credence to this administrative burden argument Lyft has raised.
  - Sally LaJoie: She appreciates Caleb’s suggestion on being close since we’ve been working at reaching an agreement since last November 2020. However, there are a lot of ways different languages can get to the same place. This proposal says information given to the Ombuds office that can potentially be given to a driver, such as a date or time of the incident should be severely limited, and only after discussion with the TNCs could. Not being able to share the date of an incident with a driver makes it very difficult for an Ombudsperson and if the company’s investigation is not providing that to the driver, then we have real concerns about the investigation. Therefore, maybe when we receive files and start sharing information, then we’ll see it’s all covered. She understands the concern that if the driver knows more then they’d retaliate, but basic information should be included both when they’re contacted by the company and as part of our investigation. If the Ombuds office had any sense a driver was to retaliate



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against a rider from a complaint, then we'd contact the TNCs and be conscientious about that. Despite the fact we receive complaints, our office is neutral, and we advocate hearing both sides. We even close complaints we don't think have any value and we're not advocating for one group over the other. Some of this basic information is not in Uber's proposal, therefore we may be close, but not quite there.

- Brittany Anthony: Hank mentioned the assumption of the victim's information would not be handed to their assailant and we believe you wouldn't do that. However, a victim or survivor's information should never be handed to anyone they do not personally choose to report to unless they decide to make it public, such as filing a police report, suing their assailant, or reporting it to PBOT. Brittany is happy to get victim advocates in Oregon and nationally to speak on those practices. It's not the assumption the Ombuds office would do something malicious with the data, but it's the best practice not to disclose a survivor's identity to someone they did not actively choose to disclose to.
  - Hank Kaplan: The solution to this best practices is to let the riders know if they disclose information to the TNC, that the TNC will share it with their investigative department, which includes the Ombud's team, which is not a public body, will keep the information separate, and under no circumstances will share their personal information with the driver. That disclosure could be a few sentences on the bottom of a report form and should satisfy the concern that the victim would be blindsided by sharing the information. We're suggesting the Ombuds team be an extension of the investigatory function of the TNCs.
  - Brittany Anthony: Brittany respectfully disagrees that the Ombuds team is an extension of Uber, as the victim chooses to report to Uber and not any other body. We can meet offline, potentially with advocates in the community in a separate meeting. The other concern is having a disclaimer on a safety incident report, that could potentially discourage someone from reporting a safety incident and leaving the entire Uber platform as a less safe environment. We don't discourage people in any way with disclaimer language and that unfortunately would be the result of something like that.
- Chuck Coleman: Sexual and physical assaults are crimes in Portland, so at what point should the rideshare companies contact the police if there's credible evidence a crime has been committed? This needs to stop and to keep drivers and riders safe, then maybe police need to be involved. Another point of concern is the time limits, so someone could make a complaint six months later resulting in a deactivated driver who has no clue. Do we want to put in time limits? He is concerned about drivers being deactivated because of a complaint. Drivers that are full-time risk being out of work for three to four days and their incomes stop when people make false claims. Lastly, he is an advocate of dashcams and wants to add them to the next meeting's agenda for a 15-minute discussion. He's discussed it with Alma, who also agrees to discuss this at the next meeting, where dashcams would protect both rider and driver.



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- Brittany Anthony: Chuck, you are right those assaults are crimes. However, many victims decide not to report to the police. As a rideshare company, it's not our position to report an assault on behalf of someone as that decision is left with the survivor. We do, however, make it known how they can report to the police and how Uber can assist in investigations if they go forward with a criminal complaint. Also, sexual assault is not just driver-on-rider because we see a 50/50 split with riders assaulting drivers, so these principles and approaches are very survivor-centric and are by no means bias against a rider or driver.
  - Alan Doud: When a driver receives a message from Lyft saying you've been flagged for safety, does that include a sexual connotation or is it separate? And how does that work?
    - Sally LaJoie: We hear from drivers that they're confused when it's something like safety, but it turns out the driver was agitated and made the rider feel uncomfortable.
    - Brittany Anthony: Uber does group sexual assault and misconduct into safety. We wouldn't say a driver was deactivated for sexual assault or misconduct simply because it could trigger potential retaliation to the victim. She believes if it was an interpersonal violence situation, then we would say interpersonal conflict, not just the word safety. Another note to be aware of is drivers can be deactivated after a long pattern of unsafe behavior, such as speeding, flirting, inappropriate conversations, or discriminatory remarks. It can be hard to itemize every complaint a driver has because it's a broad range of complaints about time.
    - Sam Cho: Sexual assault is a safety concern and is very possible to be under the broader umbrella of a safety deactivation.

### PUBLIC COMMENT

- Sam Cho: Regarding the comment about Lyft's lack of engagement is that we are not represented as a member or advisor to this Committee compared to our counterpart Uber. It's a lack of inclusion, not a lack of engagement. However, if there's a chance for Lyft to be a part of this committee, then I'm for it. Over the past year, Lyft has worked with the Ombuds team to resolve complaints submitted by drivers. They share the goal of providing consistent and transparent complaint review processes for Lyft drivers while protecting the safety and privacy of all users on the platform. Lyft shared concerns with Section B, which allows the Ombuds team to request a swath of personally identifiable, sensitive information, and proprietary business data. This places few limits on how they might use the data provided. However, in many cases, Lyft can resolve complaints to a driver's satisfaction without disclosing driver or passenger data, which is a preference. Therefore, Lyft proposes to amend Section B by requiring TNCs to provide a written response to complaints submitted by the Ombuds office, summarizing the TNCs investigation, the evidence considered, and the TNC's policies in the outcome of the investigation. Lyft also has serious



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concerns in the language in Section C, as we understand the Ombudsperson may need additional information, in some cases, regarding the incident to solve a complaint. However, the language reviewed, allows the Ombudsperson to share sensitive information including the passenger's name, account information, contact information, details of incidents, and any other personal information. This is a major breach of passenger privacy and raises significant questions. It's unclear how this information could assist in resolving any complaint and could lead to retaliatory behavior. We strongly encourage the Committee to strike any provisions that allow the sharing of passenger information with drivers.

- Video Call: Enrique was de-platformed in 2018 after he refused to pick up a ride that was a minor. The name on the account did not match and when he asked the passenger's age, he said 21 but looked to be 15-16 years old. Enrique asked to see his ID and the passenger got defensive, emotional, and made excuses then left to get whoever owned the account. She called Enrique and he explained that an unaccompanied minor, anyone under the age of 18, must ride with an adult and is against Lyft's policy. After she got off the phone, the kid yelled, cursed, and threatened that he'd call corporate to complain and get his money back. Fast forward, Enrique canceled the ride because they didn't want to pay the \$5 cancellation fee, so he took a break, and within less than an hour, tried to log on and received an email stating he was taken off the platform due to a possible break of community guidelines. An investigation was done where he sent in his story via email twice, no one called him, and he ended up losing a weekend of work, which he was depending on to pay rent and payment for the rental program. The company finally reached out and hinted at some kind of harassment or discrimination, which was the language they used in their email. After calling and bugging them every day, he was finally put back on the platform, but lost a week of work, had to pay a higher tier for the rental program, and all while trying to follow their rules.
  - Alma Raya: This is a clear example of the reasons why a driver could receive a complaint and be deactivated for doing nothing wrong. It's a liability to give a minor a ride and whether you do the right or wrong thing, you still risk being deactivated. There was nothing this driver could do about recovering his wages, nothing he could do about his rental, and these are the issues we're trying to address by making policy recommendations where someone is looking out for the drivers.
- Haris Rashid: Haris was deactivated in December 2019 from Uber. An Uber representative gave him a call and until today he's unsure what safety concern led to his deactivation. He had a regular job and was a weekend, holiday driver, so he didn't look further and let it go. However, on March 23, 2021, his Lyft account was deactivated when that safety concern was reported with HireRight, and he was surprised since he never knew his Uber deactivation was due to a safety concern, whether related to his vehicle, his behavior, his attitude, or whatever. Secondly, he had over 3,500 rides with Uber and Lyft and never had problems. He recently sent an email regarding that deactivation and they mentioned multiple safety concerns, but never received any warnings. Therefore, due to one trip which he's not aware of,



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Jo Ann Hardesty Commissioner Chris Warner Director

## TNC DRIVERS ADVISORY COMMITTEE MEETING SUMMARY FINAL

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Zoom Call

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he was deactivated from Uber and now because of HireRight's report, he's deactivated from Lyft for a safety concern on Uber's platform. Haris continued in the chat, wanting to add if there are serious concerns then it should be reported to law enforcement, evidence collected, and, at least, give the right reasons. And reported judgment should be recorded in the background for community safety.

- Duane Hanson: As the former Chair, it's good to hear the progress being made with the ongoing efforts of the Ombuds team and the importance of moving forward with improvements in the lives of drivers and passengers alike using the rideshare TNCs. From day one, it was obvious with legal in keeping everyone's personal information private while working behind the scenes to ensure complicated issues of deactivation as well as alleged impropriety whether it be the driver, the passenger, or being moved forward in a timely and just manner. He salutes the new Committee members in helping build our driving community and encourages working with the Ombuds team to ensure improvements being made toward simplifying the deactivation process, behavioral safety, and potential fare adjustments for drivers. And to look at Seattle, where they are leveling the playing field and allowing driver employees a chance to make a living while creating a fair and balanced workplace for those driving on a day-to-day basis.
- Mohammed Azharuddin: Mohammed drove for Uber and Lyft and was deactivated last year based on a discriminatory comment. He dug further to find there were multiple complaints, but only knew of one complaint regarding an accident he proved was a false claim with photos of his car. His concern is riders that want to talk about sensitive subjects and when a driver denies partaking in that discussion, sometimes they get upset, feel disrespected, and report the driver was rude. Mohammed asks that Uber or Lyft release information regarding incidents. They don't have to release names, addresses, or phone numbers, but releasing incident details helps the driver convey what happened. Basic information such as what the incident was regarding, what topic was discussed, and what happened. Mohammed has been suffering from being deactivated for three to four months, went through the Ombuds procedures, but was told to go to arbitration. He's still trying to understand the reason when he was Diamond status, drove day and night, and was a full-time driver. He doesn't understand why it happened and for what reasons, all he knows is when it says safety concerns, community guidelines, or a discriminatory comment, so what was it?
- Tracy M. Smith: Reminder that drivers can submit complaints to the Ombuds process, found on PBOT's website under the TNC Drivers Advisory Committee.

### COMMITTEE MEMBERS ONLY DISCUSSION

- Alma Raya: Alma wants to give the Ombuds team a chance to respond to Sam Cho's comments about sharing contact information. My understanding of our proposed code change is ensuring the Ombuds



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office works with TNCs on sensitive information and will take training every year to ensure they have the ins and outs of working with victims of sexual harassment.

- Hank Kaplan: He believes Alma's proposal is a fair balance between the need for confidentiality and the need for due process for the drivers. It may not be ideal from the driver's point of view or the victim's point of view, but in most cases, no one will be upset with how the Ombuds team handles information sharing or not sharing of information. There may be a few cases where someone is nervous to share information but believe it's unlikely the language of the proposal will cause any harm. Right now, people are being harmed as they're being deactivated and cannot defend themselves as they simply do not have the information. With this proposal, this is the harm we're trying to undo and the harm that constantly happens in our experience and we have never had an occasion where a physical or sexual assault victim has been in any danger and is not likely to be in any danger in this proposal.

### FINAL COMMENTS FROM COMMITTEE MEMBERS

- Jeremiah Renfrow: In these cases, my understanding is drivers are guilty until proven innocent. So, at the very least, having the Ombuds team allowed to be involved in some of these cases would make people feel better having someone watch out for them internally since drivers aren't getting information from the companies and have no idea what's happened. Companies feel no obligation to share that information, so I'm glad these conversations are happening as it's very beneficial.
- Alma Raya: She would like to make a motion to move the proposed policy on pages 16 and 17 of the suggested revisions forward. Her proposal addresses valid issues that TNC flags, but also gives the Ombuds office the ability to, at the very least, look into these issues, complaints, and deactivations.
  - Motion to move forward pages 16 and 17 of the combined meeting documents.
  - Jeremiah Renfrow seconds.
  - Seven members in favor. No objections. APPROVED.

### ADDITIONAL COMMENTS

- Mark Williams: He strongly suggests this recommendation be taken to the Bureau Director in a form of an administrative rule, which has the same force and effect as the City Code. No language in City code addresses like this, so it'd be appropriate. A few advantages to an administrative rule versus revising the code language, such as being implemented sooner. A code has to go to Council, so seeking Council dates, testifying to Council, and two weeks later Council votes on it. Also, if we ever need to make changes to the language in an administrative rule it's easier because it would need to be approved by the Bureau Director rather than going back to Council. Therefore, his suggestion is to present this recommendation to the Bureau Director as an administrative rule.





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- Jeremiah Renfrow: Agrees.
- Hank Kaplan: Does an administrative rule have the force of law as far as the TNCs are concerned?
  - Mark Williams: Mark Williams: Yes, it's found in 16.40.970 and 16.40.930, which has the same force and effect as other requirements in the Portland City Code.
- Chuck Coleman: If it's easier to implement, does that mean it's easier to change if we wanted to add or subtract to the language?
  - Mark Williams: Yes, it'd be beneficial to all stakeholders that if something isn't working, then we can make revisions easier than if in code.
  - Chuck Coleman: What is the time frame when making changes? Is it weeks or months?
  - Mark Williams: Typically, they need to be presented in front of this Committee twice, revisions are brought forward, and once the changes are approved it will go to the Bureau Director. This Committee can meet more frequently to move those changes quicker, but it does take two Committee meetings to make a change.
  - Jeremiah Renfrow: He agrees with this.
- Alma Raya: She defers to the Ombuds office to make sure this process will work and move forward sooner rather than later. She wants to make sure we don't change it into something we didn't intend to propose.
  - Hank Kaplan: He asked about it having the force of law, so an administrative rule can be enforced in the same manner as an ordinance and doesn't see a problem. If there is a difference, then he'd like to see it.
- Sally LaJoie: Will the administrative rule mirror the proposal accepted by the Committee or would it be modified by the City?
  - Mark Williams: It would reflect the proposal that was voted on, which is on pages 16 and 17 of the combined meeting documents.
- Dave Benson: He appreciates these conversations and expresses that this Committee is doing important service work. He wants to reiterate that recommendations go to the Bureau Director and sometimes the Commissioner, who can change, modify, or not accept it. He wants the Committee members to understand this is an advisory body and make sure they're not misled as they can change things.
  - Hank Kaplan: Is the Committee notified if there are changes? How does that work?



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- Dave Benson: Absolutely. There aren't secrets and they would be kept in the loop, but he's clarifying that the Bureau Director and the Commissioner have the discretion to make changes.
- Hank Kaplan: So, theoretically if the Committee was upset about changes made, it could be brought back and be proposed as an ordinance?
- Dave Benson: He guesses they'd talk to the Commissioner if the Director wanted to dramatically do something different, but the Commissioner has the authority to bring things from this body to Council or not, as it's an advisory body who makes recommendations.
- Jeremiah Renfrow: As an administrative rule request it wouldn't have to go to Council, correct?
  - Dave Benson: No, the Director has the authority, but he'd probably involve Commissioner Hardesty on something like this.
  - Jeremiah Renfrow: And if that happens, we'll just revisit it later.
  - Dave Benson: He wants everyone to know that they have latitude and discretion. Mark and he will let the Director know how long this process has been and how much work this Committee has done.
- Owen Christofferson: After the draft is approved by this Committee, he wants to clarify it's an internal process and no outside groups will be present for those changes?
  - Mark Williams: Not exactly. Changes to administrative rules go through a public process similar to this one. Someone, most likely a Committee member, would submit changes or make recommendations to make revisions. Items brought to the Committee aren't always considered as they receive many topics. He recalls it's the Committee Chair who decides what items get reviewed by this Committee.
- Tracy M. Smith: She summarizes that the Committee has approved Alma's draft proposal on pages 16-17, which will be in the form of an administrative rule. This will be sent to the Director, Commissioner, or both, who may make changes. If changes, this will be communicated to the Committee. Dave has also reminded everyone that this is an advisory body that makes recommendations and there's no guarantee it will be put into an administrative rule.
- Alma Raya: Thank you everyone for participating and glad to have new Committee members present. Thank you for this discussion as it's been a long road. If you want to submit a public comment or topic discussion, please submit a Topic Submission on the PBOT website. A related topic and something we've discussed before is about dashcams and would like to officially add to the next meeting's agenda.
  - Tracy M. Smith: Alma, please submit a Topic Submission form online regarding dashcams and specifics of that conversation.



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**CHAIR ADJOURNED THE BUSINESS MEETING AT 5:23 PM.**

**NEXT MEETING:** The next meeting will be Monday, June 14, 2021.

Submitted by, Jamie Lynne K. Souza, Recorder