



Transportation
Safety Board
of Canada

Bureau de la sécurité
des transports
du Canada



Usage of Voice and Video Recorders – Balancing Rights and Obligations

Jean L. Laporte
Chief Operating Officer

April 22, 2016

Canada

Current Status

- Under the *Canadian Transportation Accident Investigation and Safety Board Act (CTAISB Act)* on-board recordings are privileged
- TSB may use on-board recordings in its investigations
- Only a few other uses are permitted (e.g. coroners)
- Court may order the disclosure under certain circumstances
- *CTAISB Act* specifically prohibits use of recordings against workers in disciplinary, legal or other proceedings



Moving Forward

- Society has changed since the *CTAISB Act* was proclaimed
- There are cameras everywhere
- There are potential safety benefits to be derived from the broader use of on-board recordings by operators and regulators
- However, there are a number of competing interests that must be considered before changing the legislation and the rules

Balancing Rights and Obligations



The Workers

Rights

- *Charter of Rights and Freedoms*
- Privacy
- Trust and respect
- Fair and equitable treatment
- Collective Agreements

Obligations

- Compliance with laws, regulations and rules
- Compliance with company policies and procedures
- Exercise due diligence
- Duty of loyalty to employer



The Operators / Companies

Rights

- Define policies and procedures
- Manage operations and supervise employees
- Take corrective actions, including discipline

Obligations

- Compliance with laws, regulations and rules (Canadian and international)
- Respect the rights of workers
- Collective Agreements
- Effectively manage safety risks
- Take corrective actions
- Exercise due diligence
- Accountability to shareholders



The Government, Regulators and TSB

Rights

- Make laws, regulations and rules
- Monitor, inspect and audit to ensure compliance
- Investigate
- Take corrective actions, including imposing penalties

Obligations

- Compliance with laws, regulations and rules (Canadian and international)
- Respect the rights of workers and companies
- Ensure proper oversight
- Take corrective actions
- Exercise due diligence
- Accountability to the public



Third Parties

Rights

- Access to information
- Fair trial in all types of litigation
- Proper administration of justice
- Hold government accountable

Obligations

- Compliance with laws and regulations
- Respect the rights of individuals and organizations



Balancing the rights and obligations

- What is the definition of an on-board recorder?
- What / who can be recorded?
- Who can have access to the recordings?
 - Internally / externally
- What use can be made of the recordings?
 - Internally / externally
- How long are the recordings retained?



Balancing the rights and obligations

- How can the rules be enforced and who will enforce them?
 - Internally / externally
- How do we respond to criminal investigations / prosecution and civil litigation issues?
- How do we reconcile with different laws, regulations and rules in other countries?
 - Canadian workers and/or companies abroad
 - Foreign workers and/or companies in Canada



Balancing the rights and obligations

We all have some thinking to do in order to prepare and be ready, because there are no easy answers to all these questions

Once we open the door,
it will be very difficult to close it

We therefore need to do things right the first time



Canada

