



Joseph M. Centorino, Inspector General

TO: Honorable Mayor and Members of the City Commission
FROM: Joseph M. Centorino, Inspector General

DATE: November 1, 2023
RE: Public Records Compliance Review of Trolley Ridership Video Retention
OIG No. 23-20

BACKGROUND

This public records contract compliance review was conducted as a result of a separate OIG Inspection (OIG No. 23-11) to determine the accuracy of reported ridership figures for the City's free trolley service, a summary of which is provided below as background to this report.

The prior report included an analysis of ridership data presented to the City by the contractor responsible for operating its trolley system, Limousines of South Florida, Inc. (LSF). Additional data was received from a subcontractor hired by LSF at the direction of the City, TSO Mobile by Tracking Systems Corp. (TSO Mobile). TSO Mobile is responsible for the installation and maintenance of the Automatic Passenger Counters (APCs) on each trolley. The APCs are used to count the number of passengers using the system. LSF also instructed its drivers to manually record the number of riders on each trolley while they were on duty.

In discussions with representatives of Transportation America (TA), the parent company of LSF, OIG staff was informed that each trolley is equipped with video cameras positioned inside the vehicle to capture daily images of all passengers entering and exiting each trolley. The video footage is stored on hard drives within the camera system. The OIG auditors planned to conduct the inspection by utilizing available footage from those cameras to count the passengers and then compare their findings with the data compiled by TSO and reported to the City.

Despite several requests by the OIG for video footage, the OIG auditors received a limited amount of video footage from the contractor, due to the footage being maintained for up to 15 days. Recordings were provided for nine trolley runs, involving seven individual trolleys, during the week of March 13 through March 18, 2023. OIG staff examined this footage and physically counted each rider entering the sampled trolley, including drivers that periodically exited and entered the trolleys, to determine the total ridership for each trolley run.

The corresponding physical counts were then compared to the APC and trolley drivers' manual counts, which led to the OIG finding significant variances (both positive and negative) between its video counts and both the APC and manual counts for the nine sampled trolley runs.

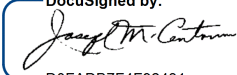

PUBLIC RECORDS ISSUE

In a discussion between the OIG and TA as OIG No. 23-11 was concluding, it was stated that the current Agreement with the City requires the storage of video footage for 21 days. This statement was confirmed by an OIG auditor, who located a provision in Amendment #5 Exhibit A to the contract, dated October 26, 2017, which provides that the contractor should equip trolleys with equipment for "...recording audio and video and storing recorded data for a minimum of three (3) weeks..." Its representatives also stated in their response to the inspection report that two weeks is the maximum storage capacity of the outdated memory card in the system.

Following a separate consultation with a First Assistant City Attorney, the OIG was informed that, under the "totality of circumstances" test developed by the Florida Supreme Court, "such records created in connection with a City function are likely considered public records pursuant to Chapter 119, Florida Statutes." According to that attorney, these records "may be surveillance records which must be maintained for a minimum of thirty days."

While there is a general provision in Amendment #3 Section 8 under Article 2 of the City's contract with LSF, dated January 14, 2016, requiring the contractor to comply with State of Florida Public Records Law, that provision does not explicitly state the mandated time of records retention for any of the records, which may vary depending on the nature of the particular records involved.

While the City's contractor would have had a good faith basis for its reliance on the three-week retention period specified in the October 26, 2017 Agreement (although it kept the records for only 15 days), henceforth it should maintain the records for at least the thirty-day period based on the received legal opinion.

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Joseph M. Centorino, Inspector General	Date
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Mark Coolidge, Chief Auditor	Date

- cc: Alina T. Hudak, City Manager
 Rickelle Williams, Assistant City Manager
 Jose R. Gonzalez, Transportation Department Director
 Nick Mazorra, COO, Limousines of South Florida, Inc.
 Wendy Diaz, Sr. Technical Support Manager, TSO Mobile by Tracking Solutions, Corp.
 Rafael Paz, City Attorney
 Mark Fishman, First Assistant City Attorney

August 22, 2023

Joseph M. Centorino, Inspector General
The Office of Inspector General
City of Miami Beach
1130 Washington Avenue
6th Floor
Miami Beach, FL 33139

Sent Via Email

JosephCentorino@miamibeachfl.gov

Re: LSF Response To Draft OIG Public Records Compliance Review of Trolley Ridership Video Retention – OIG No. 23-xx

Dear Mr. Centorino:

Limousines of South Florida, Inc. (LSF) thanks the Office of Inspector General (OIG) for the opportunity to respond to the above-referenced Draft OIG Public Records Compliance Review of Trolley Ridership Video Retention – OIG No. 23-xx. LSF notes that this Response follows a prior LSF Response, dated June 21, 2023, to the Draft Trolley Ridership Inspection Report (OIG Report). To the extent that any issues are relevant to this OIG Report, LSF incorporates that prior submission to this attached Response.

As noted previously, LSF remains committed to ensuring that the public record provides a factual and accurate account of the issues discussed in the OIG's Inspection Report and the instant OIG Public Records Compliance Review of the Trolley Ridership Video Retention. In this regard, LSF appreciates the opportunity provided to ensure that the public record is inclusive of perspectives from all relevant parties – the OIG (as author of the Reports), and the City staff and LSF as parties of the Miami Beach Trolley Program Agreement. To this end, attached please find LSF's Response to the Draft OIG Public Records Compliance Review of Trolley Ridership Video Retention – OIG No. 23-xx.

For purposes of clarity in the public record, as with LSF's prior Response, the attached comments are provided within the text of the Draft OIG Report that was provided on August 17, 2023. Specifically, LSF provides comments in Blue Italics Font in response to each paragraph of the OIG Draft Report immediately after each paragraph in the Memorandum, so that the OIG can determine which responses will be incorporated into the Final OIG Report.

Consistent with Section 2-256, Sub-Section (h) of the Code of the City of Miami Beach, LSF respectfully requests that this complete Response be nonetheless attached to the Final OIG Report so that LSF's comments that are not incorporated into the OIG Final Report can be available for anyone that wishes to review LSF's Response/Comments.

If you have any questions, or require any further information, please do not hesitate to advise.

Sincerely,


Ray Gonzalez
President & CEO

Attachment

2766 NW 62nd Street
Miami, Florida 33147

Tel 305.265.3302
Fax 305.265.3303

LSF RESPONSE TO DRAFT OIG TROLLEY PUBLIC RECORDS

COMPLIANCE REVIEW OF TROLLEY RIDERSHIP VIDEO RETENTION – OIG NO. 23-XX

(All LSF Responses/Comments are in Blue Italics Font)

For purposes of clarity in the public record, LSF provides comments in Blue Italics Font in response to each paragraph of the OIG Draft Report immediately after each paragraph in the Memorandum, so that the OIG can determine which responses will be incorporated into the Final OIG Report.

Consistent with Section 2-256, Sub-Section (h) of the Code of the City of Miami Beach, LSF respectfully requests that this complete Response be nonetheless attached to the Final OIG Report so that LSF's comments that are not incorporated into the OIG Final Report can be available for anyone that wishes to review LSF's Response/Comments.

DRAFT

TO: Honorable Mayor and Members of the City Commission
 FROM: Joseph M. Centorino, Inspector General

DATE: August 17, 2023
 RE: Public Records Compliance Review of Trolley Ridership Video Retention
 OIG No. 23-xx

BACKGROUND

This public records contract compliance review was conducted as a result of a separate OIG Inspection (OIG No. 23-11) to determine the accuracy of reported ridership figures for the City's free trolley service, a summary of which is provided below as background to this report.

LSF Comments (All LSF Comments are in Blue Italics Font)

Limousines of South Florida, Inc. (LSF) thanks the Office of Inspector General (OIG) for the opportunity to respond to the above-referenced Draft OIG Public Records Compliance Review of Trolley Ridership Video Retention – OIG No. 23-xx. LSF notes that this Response follows a prior LSF Response, dated June 21, 2023, to the Draft Trolley Ridership Inspection Report (OIG Report). To the extent that any issues are relevant to this OIG Report, LSF incorporates that prior submission to this attached Response.

As noted previously, LSF remains committed to ensuring that the public record provides a factual and accurate account of the issues discussed in the OIG's Inspection Report and the instant OIG Public Records Compliance Review of the Trolley Ridership Video Retention. In this regard, LSF appreciates the opportunity provided to ensure that the public record is inclusive of perspectives from all relevant parties – the OIG (as author of the Reports), and the City staff and LSF as parties of the Miami Beach Trolley Program Agreement.

The prior report included an analysis of ridership data presented to the City by the contractor responsible for operating its trolley system, Limousines of South Florida, Inc. (LSF). Additional data was received from a subcontractor hired by LSF at the direction of the City, TSO Mobile by Tracking Systems Corp. (TSO Mobile). TSO Mobile is responsible for the installation and

maintenance of the Automatic Passenger Counters (APCs) on each trolley. The APCs are used to count the number of passengers using the system. LSF also instructed its drivers to manually record the number of riders on each trolley while they were on duty.

LSF Comments (All LSF Comments are in Blue Italics Font)

LSF concurs with this paragraph.

In discussions with representatives of Transportation America (TA), the parent company of LSF, OIG staff was informed that each trolley is equipped with video cameras positioned inside the vehicle to capture daily images of all passengers entering and exiting each trolley. The video footage is stored on hard drives within the camera system. The OIG auditors planned to conduct the inspection by utilizing available footage from those cameras to count the passengers and then compare their findings with the data compiled by TSO and reported to the City.

LSF Comments (All LSF Comments are in Blue Italics Font)

LSF concurs with this paragraph.

Despite several requests by the OIG for video footage, the OIG auditors received a limited amount of video footage from the contractor, due to the footage being maintained for up to 15 days. Recordings were provided for nine trolley runs, involving seven individual trolleys, during the week of March 13 through March 18, 2023. OIG staff examined this footage and physically counted each rider entering the sampled trolley, including drivers that periodically exited and entered the trolleys, to determine the total ridership for each trolley run.

LSF Comments (All LSF Comments are in Blue Italics Font)

*As noted in the prior Response, and acknowledged in Paragraph 2 of the instant Draft OIG Report, the video equipment in question was provided by a subcontractor hired by LSF **at the direction of the City** – TSO Mobile by Tracking Systems Corp. (TSO Mobile). (emphasis added) As such, any capacity limitations as to the number of days that the video footage was available was outside of LSF's control, as the equipment in question was provided by TSO Mobile, which was the vendor that the City directed LSF to sub-contract with.*

Nevertheless, as has been noted, the City and LSF have subsequently agreed to install new optional video equipment that will be provided by LSF that will have the capacity to retain video footage for thirty (30) days, which is consistent with the parameters delineated in this OIG Draft Report.

The corresponding physical counts were then compared to the APC and trolley drivers' manual counts, which led to the OIG finding significant variances (both positive and negative) between its video counts and both the APC and manual counts for the nine sampled trolley runs.

LSF Comments (All LSF Comments are in Blue Italics Font)

LSF concurs with this paragraph, but reiterates the point from the prior Response that the OIG's Inspection Report did not conclude the City's trolley ridership figures were inflated. In fact, it was quite the opposite. During the designated one-week observation period conducted in March 2023, the OIG found that ridership figures were underreported by almost sixteen percent (16%). In other words, during the designated one-week period, the Trolley Program transported almost sixteen

(16%) more passengers than reported by the APC equipment.

LSF respectfully submits that these details are highly probative, and should be provided in the text of the OIG's Final Report or affixed to the Final Report as part of LSF's Response.

PUBLIC RECORDS ISSUE

In a discussion between the OIG and TA as OIG No. 23-11 was concluding, it was stated that the current Agreement with the City requires the storage of video footage for 21 days. This statement was confirmed by an OIG auditor, who located a provision in Amendment #5 Exhibit A to the contract, dated October 26, 2017, which provides that the contractor should equip trolleys with equipment for "...recording audio and video and storing recorded data for a minimum of three (3) weeks..." Its representatives also stated in their response to the inspection report that two weeks is the maximum storage capacity of the outdated memory card in the system.

LSF Comments (All LSF Comments are in Blue Italics Font)

LSF generally concurs with this paragraph, but reiterates that any capacity limitations as to the number of days that the video footage in question was available was outside of LSF's control, as the equipment in question was provided by TSO Mobile, which was the vendor that the City directed LSF to sub-contract with.

Nevertheless, as has been noted, the City and LSF have subsequently agreed to install new optional video equipment that will be provided by LSF that will have the capacity to retain video footage for thirty (30) days, which is consistent with the parameters delineated in this OIG Draft Report.

Following a separate consultation with a First Assistant City Attorney, the OIG was informed that, under the "totality of circumstances" test developed by the Florida Supreme Court, "such records created in connection with a City function are likely considered public records pursuant to Chapter 119, Florida Statutes." According to that attorney, these records "may be surveillance records which must be maintained for a minimum of thirty days."

LSF Comments (All LSF Comments are in Blue Italics Font)

LSF offers no opinion at this time as to the legal interpretation of the First Assistant City Attorney as to the scope of the Florida Public Records Act, Chapter 119 of the Florida Statutes.

However, as has been stated, the City and LSF have subsequently agreed to install new optional video equipment that will be provided by LSF that will have the capacity to retain video footage for thirty (30) days, which is consistent with the parameters delineated in this OIG Draft Report, regardless of whether LSF's counsel agrees or disagrees with the City's legal opinion.

Although there is a general provision in Amendment #3 Section 8 under Article 2 of the City's contract with LSF, dated January 14, 2016, requiring the contractor to comply with State of Florida Public Records Law, that provision does not explicitly state the mandated time of records retention for any of the records, which may vary depending on the nature of the particular records involved.

LSF Comments (All LSF Comments are in Blue Italics Font)

LSF concurs with this paragraph.

While the City's contractor would have had a good faith basis for its reliance on the three-week retention period specified in the October 26, 2017 Agreement (although it kept the records for only 15 days), henceforth it should maintain the records for at least the thirty-day period based on the received legal opinion.

LSF Comments (All LSF Comments are in Blue Italics Font)

As noted previously, LSF does not opine at this time as to the legal interpretation/opinion of the First Assistant City Attorney as to the scope of the Florida Public Records Act, Chapter 119 of the Florida Statutes.

However, as has been stated, the City and LSF have subsequently agreed to install new optional video equipment that will be provided by LSF that will have the capacity to retain video footage for thirty (30) days, which is consistent with the parameters delineated in this OIG Draft Report, regardless of whether LSF's counsel agrees or disagrees with the City's legal opinion.

Joseph M. Centorino, Inspector General Date

Mark Coolidge, Chief Auditor Date

- cc: Alina T. Hudak, City Manager
- Rickelle Williams, Assistant City Manager
- Jose R. Gonzalez, Transportation Department Director
- Nick Mazorra, COO, Limousines of South Florida, Inc.
- Wendy Diaz, Sr. Technical Support Manager, TSO Mobile by Tracking Solutions, Corp.
- Rafael Paz, City Attorney
- Mark Fishman, First Assistant City Attorney

MIAMIBEACH

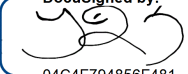
MEMORANDUM

TO: Joseph M. Centorino, Inspector General

FROM: José R. González, P.E., Director, Transportation and Mobility Department

DATE: October 4, 2023

SUBJECT: **Office of the Inspector General (“OIG”) Draft Report - Public Records Compliance Review of Trolley Ridership Video Retention – OIG No. 23-20**

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The City Administration (“Administration”) has completed a review of the Office of the Inspector General’s (“OIG”) Draft Report entitled “Public Records Compliance Review of Trolley Ridership Video Retention” (“OIG No. 23-xx”) which follows a prior OIG report entitled “Trolley Ridership Inspection Report” (“OIG No. 23-11”). To the extent that any issues identified in OIG No. 23-xx are relevant to OIG No. 23-11, the Administration incorporates its prior comments to this response.

The Administration remains committed to ensuring the integrity of the public record with regard to the retention of video footage from the closed-circuit television (“CCTV”) cameras on-board the trolley vehicles used for the operation of the Miami Beach Trolley service. The existing CCTV camera and hard drive equipment installed in each trolley vehicle is outdated by current industry standards and does not have the capacity to retain more than about 15 days of video footage.

The Transportation and Mobility Department is working with the trolley contractor, Limousines of South Florida, Inc. (“LSF”) to upgrade all CCTV cameras and hard drives on-board all City trolley vehicles as expeditiously as possible to ensure that video footage can be maintained for a minimum of 30 days pursuant to the interpretation of the City Attorney’s Office of Chapter 119, Florida Statutes.

LSF anticipates the new upgraded equipment will be installed on all City trolley vehicles and fully operational by November 30, 2023. Hence, from that date forward, all trolley video footage will be maintained for a minimum of 30 days.

The Administration appreciates the opportunity to comment on OIG No. 23-xx. Please feel free to contact me or José R. González, P.E., Transportation and Mobility Director, at josegonzalez@miamibeachfl.gov if you have questions or require further information.

cc: Alina T. Hudak, City Manager
Rafael Paz, City Attorney
Eric T. Carpenter, P.E., Deputy City Manager
Rickelle Williams, Assistant City Manager
José R. González, P.E., Director, Transportation and Mobility Department
Nick Mazorra, Chief Operating Officer, LSF
Mark Coolidge, Chief Auditor