

# Negligent Retention & Supervision

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# Retention



# Supervision



How do they fit together?



How do they fit together?

**Document**

How do they fit together?

Document  
Document



How do they fit together?

Document

Document

Document

# But Be Careful How you Document





# Personnel Files



# Personnel Files

Employers must make personnel files available:

- 1) To a former worker within 15 days of a written request to inspect and copy a personnel file.
- 2) To current workers at least once per calendar year if the employee asks for a copy. (employee may be charged for the cost of copying)

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# Personnel Files

Any formal or **informal** employee evaluations and **reports** relating to the employee's

- character
- work habits
- compensation and benefits



# Personnel Files

▶ Personnel Files DO include

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▶ Personnel Files DO include

▶ Investigative Materials

# Personnel Files

▶ Personnel Files DO include

# Personnel Files

▶ Personnel Files DO include

▶ materials not necessarily kept in a file



# Personnel Files

NO medical information  
in personnel files



# Investigative Materials



# Camera Video Recordings



- ▶ Any video recordings used to trigger disciplinary action should be included in a the personnel file

# Camera Video Recordings



- ▶ Any video recordings used to trigger disciplinary action should be included in a the personnel file
  - ▶ whether camera is outward or forward facing



# Camera Video Recordings



- ▶ Your monitoring company must promptly save any “triggering” videos

# Camera Video Recordings



- ▶ Your monitoring company must promptly save any “triggering” videos
  - ▶ in a format and location that can be accessed as part of the personnel file

# Camera Video Recordings



- ▶ Your monitoring company must *delete* any videos that are later unsubstantiated.

# Driver Facing Cameras –

## *Who, What, When, Where, Why*

- ▶ Have a clear and specific policy on *who* reviews such videos, *when*, and *how often*

# Driver Facing Cameras –

*Who, What, When, Where, Why*

- ▶ Policies must be clear and uniform



# Driver Facing Cameras – *Who, What, When, Where, Why*

► *Who* -  
is in charge  
of camera  
reviews?



# Driver Facing Cameras –

*Who, What, When, Where, Why*

▶ *What* – are you reviewing for?

# Driver Facing Cameras –

*Who, What, When, Where, Why*

- ▶ *What* – are you reviewing for?
- ▶ *What* – are the company policies that you are monitoring?

# Driver Facing Cameras –

*Who, What, When, Where, Why*

- ▶ *What* – are you reviewing for?
- ▶ *What* – are the company policies that you are monitoring?
- ▶ *What* – is the violation this video portrays?

# Driver Facing Cameras – *Who, What, **When**, Where, Why*

► ***When*** – did the violations occur?





# Driver Facing Cameras – *Who, What, **When**, Where, Why*

- ▶ ***When*** – did the violations occur?
- ▶ ***When*** – are the videos being reviewed?



# Driver Facing Cameras –

*Who, What, When, **Where**, Why*

▶ ***Where*** - did the violations occur?

# Driver Facing Cameras –

*Who, What, When, **Where**, Why*

- ▶ ***Where*** - did the violations occur?
- ▶ ***Where*** - are the videos reviewed and kept?

# Driver Facing Cameras – *Who, What, When, Where, Why*

► *Why* – are the videos being reviewed?



# Driver Facing Cameras –

## *Who, What, When, Where, Why*

- ▶ Review must be uniform review across fleet
  - ▶ unless specifically stated need for greater frequency – such as a certain number of violations in a limited time period that triggers greater scrutiny



# Driver Facing Cameras – *Delete and Destroy*

Anything non-triggering should be  
deleted and destroyed.

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- don't keep anything you don't need (so don't want) to have

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- don't keep anything you don't need (so don't want) to have
  - E.g. inadvertent medical or other personal information

# Must Personnel Files Include Camera Video Recordings

- ▶ Any video recordings used to trigger disciplinary action must be included in a the personnel file

# Must Personnel Files Include Camera Video Recordings?

- ▶ Monitoring company must promptly save triggering videos and in a format that you can save to the employee's personnel file



# Retention of other Recordings

- ▶ Absent any video recordings that trigger disciplinary actions, you must *not* retain any other video recording.

# How long do I have to keep the records?



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- ▶ Keep personnel files for 6 years after separation of employment

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- ▶ Keep personnel files for 6 years after separation of employment
- ▶ If that is impossible, keep the records for 3 years at a minimum

# THANK YOU

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