

BACK ON TRACK: WMATA RED LINE METRORAIL ACCIDENT AND CONTINUAL FUNDING CHALLENGES

HEARING

BEFORE THE

SUBCOMMITTEE ON FEDERAL WORKFORCE,
POSTAL SERVICE, AND THE DISTRICT
OF COLUMBIA

OF THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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BACK ON TRACK: WMATA RED LINE METRO- RAIL ACCIDENT AND CONTINUAL FUNDING CHALLENGES

TUESDAY, JULY 14, 2009

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL
SERVICE, AND THE DISTRICT OF COLUMBIA,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:12 p.m., in room 2154, Rayburn House Office Building, Hon. Stephen F. Lynch (chairman of the subcommittee) presiding.

Present: Representatives Lynch, Norton, Cummings, Kucinich, Connolly, Chaffetz, Bilbray, and Issa.

Also present: Representatives Van Hollen and Mica.

Staff present: William Miles, staff director; Aisha Elkheshin, clerk; Jill Crissman, professional staff member; Margaret McDavid and Jill Henderson, detailees; Daniel Zeidman and Christina Severin, interns; Lawrence Brady, minority staff director; Dan Blankenburg, minority director of outreach and senior advisor; Adam Fromm, minority chief clerk and Member liaison; Tom Alexander, minority senior counsel; Christopher Bright, minority senior professional staff member; and Glenn Sanders, minority Defense fellow.

Mr. LYNCH. Good afternoon, everyone. I apologize for the brief delay in starting this hearing. The Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia will now come to order.

I welcome our ranking member, Jason Chaffetz, member of the subcommittee, all hearing witnesses, and all those in attendance.

The Chair, ranking member, and the subcommittee members will each have 5 minutes to make opening statements, and all Members will have 3 days to submit statements for the record.

At this time, I would like to ask unanimous consent that the testimony from the Washington Metro Area Transportation Authority Riders' Advisory Council be submitted for the record.

[The information referred to follows:]

For internal use only embargoed until Monday, June 13, 2009.



600 Fifth Street NW
Washington, DC 20001
202-962-2891

July 16, 2009

Chairman Graham and Members of the Board,

Along with my monthly report today I offer my condolences and the condolences of all R.A.C. and AAC members to the families and communities of those who lost their lives and suffered injuries in last month's tragic accident on the redline. The R.A.C. and AAC adopted a joint resolution offering the sympathies of our members to those directly impacted by the accident.

WHEREAS the Riders' Advisory Council and the Accessibility Advisory Committee represent riders of Metro throughout the region; and

WHEREAS eight passengers and one employee died and at least 80 passengers were injured on June 22, 2009;

Therefore, be it *RESOLVED* that the Riders' Advisory Council and the Accessibility Advisory Committee offer their condolences to the families and communities of the deceased and injured.

As rider representatives, Members of the Council believe it is important both to learn the causes of the June 22nd accident and take steps to prevent such a tragedy in the future, both here at WMATA and on other systems. We understand that the investigation will take months, and are encouraged that WMATA is taking steps to ensure rider safety in the interim.

Customer Communications

At our July 1 meeting, Allison Hall, the Assistant Superintendent for Customer Operations in Metro's Rail Operations Control Center, briefed us on communicating with customers during unplanned service disruptions, focusing on recent service disruptions on the Red line and Green line and at the Pentagon Rail Station. This briefing was done at our request based on reports of delayed or ambiguous communications to both passengers on the rail system and riders who had not yet entered the system during unplanned service disruptions. These reports came from R.A.C. and AAC Members, direct input to our Members from the public, and press accounts of customer communications in the hours after the red line accident.

R.A.C. members made a number of suggestions:

- Vary language in verbal and written announcements in stations, on trains, on the website, in e-alerts, on phone lines, to distinguish between types and extent of service disruptions—service delays versus suspended service, and, when possible, identify the length of the disruption.
- Consciously develop plain language approach to service disruption announcements, avoiding the use of "jargon" unfamiliar to riders.

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- In major disruption situations, alter audio announcements and PID notices schedule to continuously repeat updates on the disruption and information about alternate routes—including bus options—in stations at frequent intervals.
- Frequent redundant announcements on PID notices and over audio are important for riders with visual or auditory disabilities, who do not have a line of sight to a PID sign, or who may speak but not read English.
- Make broader use of the wireless microphones in rail stations to make announcements during unplanned disruptions.
- Improve the audio systems in rail cars and provide more information to passengers on rail cars about extent of service disruptions.
- Hold buses or add buses, particularly limited service commuter routes, to allow passengers traveling through delays to reach their bus and final destination.
- Educate passengers ahead of time about preparing themselves for service disruptions—including what to expect in rail stations, planning alternate routes, and where and how to obtain updated information.

The R.A.C. has provided input to Metro in the past on customer communications during unplanned service disruptions, including emergency situations. One veteran R.A.C. member noted significant improvement in recent years in the quality of WMATA's communications during unexpected service disruptions. However, in light of communications issues identified during recent disruptions, we hope that the Authority will consider the suggestions above as a way to further minimize the effect of service disruptions on the riding public.

We are aware that media relations and the transit police have designated roles or potential roles in service disruptions and look forward to working with those staff as well.

In addition to unplanned service disruptions, R.A.C. members are also interested in how planned changes in service are conveyed to affected communities. I hope that we can continue this dialogue with WMATA staff on customer communications for the benefit of all riders.

Passenger Safety

During 2007, following a number of accidents involving WMATA employees, passengers and bystanders, the R.A.C. has several discussions with WMATA staff regarding safety in WMATA operations. R.A.C. Members at that time expressed concerns and made a number of suggestions. Among those suggestions were increasing training for operators and including WMATA-oriented training in the local CERT programs.

NextBus

Also on July 1, WMATA's new system-wide NextBus Arrival service was launched to the public. R.A.C. and AAC members were happy to have participated in the development of this program and look forward to seeing it meet the needs of our riders and continue to grow with our system.

Planning for FY2011

Once again, the Council looks forward to working next fall to help advance a thoughtful public dialogue on how Metro can meet the fiscal and service challenges it faces in the coming year and beyond.

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Council Working Groups and AAC Report

Our Governance Working Group has met to develop recommendations for Council activity as well as reviewing our bylaws. The AAC marked the 15 year anniversary of the MetroAccess program, including recognition of the many WMATA employees, AAC members and everyday riders who have worked to make that program successful help bring independence to the lives of countless residents of our region.

Thank you for your attention. I would welcome the opportunity to answer any questions that you may have.

Diana Zinkl, JD, MCP
2009 Chair
WMATA Riders' Advisory Council

Mr. LYNCH. I would also like to ask unanimous consent that Representative Chris Van Hollen be allowed to join us and to ask questions of witnesses appearing before us today.

Hearing no objections, it is so ordered.

Ladies and gentlemen, again, let me welcome you to the subcommittee's third District of Columbia-related oversight hearing, entitled, "Back on Track: The Washington Metro Area Transit Authority Red Line Metrorail Accident and Continual Funding Challenges."

Before delving into the purpose of this afternoon's hearing, I would like to express this subcommittee's heartfelt sympathy, and that of all of our Members in Congress, for the victims of the Red Line Metrorail accident on Monday, June 22, 2009, and for their families and friends. The tragic loss of life and the dozens of injuries make today's oversight hearing all that more important.

As the Nation's capital area's most public transportation authority, WMATA provides services to a population of over 3½ million people within a 1,500-square-mile area through Metrorail, Metrobus, and MetroAccess. And given the reliance of Metro not only for the local economy but also nationally, with an estimated 42 percent of our Federal employees commuting to work via Metro and millions of tourists depending on the system to get around, it is critically important that America's transit system be both dependable and safe.

While, to their credit, the Washington Metro Area Transit Authority has at times certainly exhibited great qualities over its 33-year history, last month's accident points to the fact that there still remains room for improvement in terms of ensuring that the highest standards of safety exist for Metro riders and employees.

Additionally, the June Red Line Metrorail accident also reignited the debate over the state of WMATA's financial condition and the impact that the authority's funding challenges has on such issues as deferred maintenance, capital enhancement projects, and WMATA's ability to upgrade and replace aging equipment and railcars. Thus, it is the intent of the subcommittee that today's hearing also be used to reexamine and discuss WMATA's financial condition and its effect on safety, reliability, and dependability.

I must also say that I am happy to learn that funds have been provided in the fiscal year 2010 Transportation-HUD Appropriations bill marked up yesterday. Although it has only been a little over 2 months since the subcommittee's last oversight hearing on WMATA, the events of the past month have obviously necessitated a need for this panel to reassess and explore a host of issues relating to WMATA's services and operations, which are indispensable to the region and to the Federal Government.

While today's hearing certainly won't bring a final resolution as to the cause or leading factors of the recent accident, given the various ongoing investigations, the hearing is meant to continue the dialog between WMATA and its regional partners and the various Federal Government oversight entities on the specific issue of system safety and to learn what is being done now to prevent, as best as possible, another fatal accident from occurring in the future.

I would like to thank today's witnesses for joining us as we discuss this important matter. I look forward to your testimony.

And I now yield to our ranking member, Jason Chaffetz, the gentleman from Utah, for 5 minutes.
[The prepared statement of Hon. Stephen F. Lynch follows:]

**STATEMENT OF CHAIRMAN STEPHEN F. LYNCH
AT THE SUBCOMMITTEE ON FEDERAL WORKFORCE
AND POSTAL SERVICE, AND THE DISTRICT OF COLUMBIA**

**WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA)
OVERSIGHT HEARING ENTITLED**

**“Back on Track: WMATA Red Line Metrorail Accident and Continual Funding
Challenges”**

**Tuesday, July 14 at 2:00 p.m.
2154 of the Rayburn House Office Building**

Ladies and gentlemen, again, let me welcome you to the Subcommittee’s third D.C. related oversight hearing, entitled “Back on Track: WMATA Red Line Metrorail Accident and Continual Funding Challenges.” Before delving into the purpose of this afternoon’s hearing, I’d like to express my heartfelt sympathy and that of the Subcommittee for the victims of the Red Line Metrorail accident on Monday, June 22, 2009, and for their families and friends. The tragic loss of lives and the dozens injured make today’s oversight hearing all the more important.

As the National Capitol Area’s foremost public transportation authority, WMATA provides services to a population of over 3.5 million within a 1,500 square-mile area through Metrorail, Metrobus and MetroAccess. Given the reliance on Metro not only for the local economy but also nationally, with an estimated 42% of federal employees commuting to work via Metro and millions of tourists depending on the system to get around, it is critically important that ‘America’s Transit system’ be both dependable and safe. While to their credit, WMATA has, at times, certainly exhibited these qualities over its 33 year history, last month’s accident points to the fact that there still remains room for improvement in terms of ensuring that the highest standard of safety exists for Metro riders and employees, alike. Additionally, the June Red Line Metrorail accident also reignited the debate over the state of WMATA’s financial condition and the impact that the authority’s funding challenges has on such issues as deferred maintenance, capital enhancements projects and WMATA’s ability to upgrade and replace aging equipment and railcars. Thus, it is the intent of the Subcommittee that today’s hearing also be used to re-examine and discuss WMATA’s financial condition and its affect on safety, reliability and dependability. I must also say that i am happy to learn that funds have been provided in the FY 2010 Transportation/HUD appropriations bill marked up yesterday evening.

Although it has only been a little over two months since the Subcommittee's last oversight hearing on WMATA, the events of the past month have obviously necessitated the need for this panel to once again explore a host of issues relating to WMATA's services and operations, which are indispensable assets to the region and to the federal government. While today's hearing certainly won't bring a final resolution as to the cause or leading factors of the recent accident - given the various ongoing investigations - the Hearing is meant to continue the dialogue between WMATA, its regional partners and the various federal government oversight entities on the specific issue of system safety and to learn what is being done now to prevent, as best as possible, another fatal accident from occurring in the future. I'd like to thank today's witnesses for joining us as we discuss this important matter. I look forward to your testimony.

###

Mr. CHAFFETZ. Thank you, Chairman Lynch. I appreciate you holding this hearing and participation today.

On April 29th, we held an oversight hearing on the Washington Metropolitan Area Transit Authority. At that hearing, we examined Metro's financial condition and internal controls, along with safety and security issues.

On June 22, 2009, a tragic accident, the most serious in Metro's history, occurred on the Red Line. One train crashed into the back of another, killing 9 and injuring 80. In addition to the dead and injured, damage to the morale of Metro's riders and its workers and to Metro's reputation as a whole is ongoing. A recent Washington Post editorial commented on the crash as having, "shattered many riders' assumptions about the safety of the system."

Today's oversight hearing will examine that accident and continuing challenges faced by Metro. Metro appears to be in the throws of an epic crisis. As a Member of Congress and as a Metro user myself, I am very concerned about the direction.

Even before the catastrophe of June 22nd, a Washington Post story described comments from the Metro riders as revealing, "a band of beaten down and frustrated people who, despite their close kinship with Metro, have had about enough."

In the wake of the June 22nd crash, a more recent story reflected growing concerns about extensively cramped conditions, long commutes, jerky rides, abrupt stops, and passengers waiting for more than three full trains to pass before boarding. There is also evidence of nerves rubbed raw and some reports of yelling and shoving along the way.

While investigations are continuing, there are deeply disturbing reports of track circuit problems which should have been anticipated and which have been dealt with in other systems, notably the Bay Area Rapid Transit system in San Francisco. Metro apparently never installed a backup system that is used by BART.

A significant segment of the Federal work force relies on the Metro, plus millions of visitors each year. We are also quite aware of the enhanced security issues which apply to the Metro because it services the Washington region.

The last Congress approved a measure sponsored by the former chairman of our committee, Tom Davis, who I am pleased to see is one of our witnesses today. That law authorizes much-needed funds and mandates management assistance, but follow-through by the administration and this Congress is required to make that law a reality.

I look forward to hearing from the witnesses today. And let me just say, on a personal note, our heartfelt thoughts and prayers with those who were injured and killed on the Metro. It is devastating anytime you see that. I think that is the importance of the hearing today.

I look forward to the participation here. We want to make sure that we are implementing the best practices. I think individually—let's break it up—everybody's heart is in the right direction. But if the management is not there to coordinate and move it forward in a cohesive manner, I think that is where this committee needs to be involved.

I have my Metro card. I like riding it. I enjoy it. But there are also challenges. There are times and things and frustrations that I think are appropriate for us to dive into. And so, Mr. Chairman, I thank you for holding this hearing. I look forward to the dialog, from hearing from our witnesses, and a better understanding of what is happening or what is not happening with the Metro today.

And, with that, I will yield back.

Mr. LYNCH. I thank the gentleman.

Before we continue with opening statements, I would invite our first panel to come forward and be seated.

The Chair now recognizes the gentlelady from the District of Columbia, Ms. Holmes Norton, for 5 minutes.

Ms. NORTON. Thank you very much, Mr. Chairman.

I want to once again thank Chairman Stephen Lynch for his attention to Metro by responding to my request early in his tenure as the new Chair of this subcommittee with a hearing on April 24th, and again today granting my request for this hearing in light of the June 22nd Metro tragedy.

I had spoken with the appropriate Metro and National Transportation Safety Board officials concerning this hearing before the investigation is completed and learned that it is not unusual to be asked to testify before an investigation is fully completed. The investigation of this collision may require well in excess of a year or even more.

Following our hearing in April, we had every reason to believe that the Metro system was a safe system. And, because of the consistent oversight of this subcommittee, I continue to believe that the system that serves this region and millions of visitors is safe. I would not hesitate to board a Metro train even after the tragedy of June 22nd.

However, the public is not fully aware of what this subcommittee has learned during years of consistent oversight about the overall safety of the system. And, in any case, the public deserves to know much more about this recent catastrophe. It is fair for riders to seek reassurance now or to know whether there is reason to be concerned about the daily trip on a Metro train. The public has bits and pieces of information about what may have caused the accident and what is being done now to assure its safety. Today's hearing, however, will make public all that is known now, as Congress opens its own investigation and will allow the public to separate urban legend from authoritative facts and eyewitness testimony.

Long before the June 22nd accident, the regional congressional delegation had been working to secure funds for Metro for capital costs, such as replacement of Metro trains burdened by increasing numbers of Federal and congressional employees, among others; actually subsidized by the Federal Government in order to encourage employees to take Metro, who form the majority of Metro's week-day employees.

Today, the region is particularly grateful to Transportation and Housing and Urban Development Appropriations Chair John Olver for finding the funds in his appropriation for the first \$150 million installment and the \$1.5 billion Congress authorized for a 10-year period.

Regrettably, despite our efforts over several years, funding was not authorized until 2008, when control changed in the Congress. But we particularly appreciate the efforts of the former Chair of the full committee, Tom Davis, who started us down the road to today's funding. And we are happy to have him testify today.

The necessary funds also were not included in the President's budget, despite constant urging from the regional delegation. But Chairman Olver found the funds to meet this year's commitment. And I know that millions of public and private employees and residents are deeply grateful to him and to the subcommittee.

I have just come, Mr. Chairman, from managing a floor resolution recognizing those who were injured and remembering residents we lost in this tragedy: seven from the District of Columbia, one from Maryland, and another from Virginia.

We do not have a response that can console the losses of the victims and their families and those who were injured. However, we can begin with today's hearing and the first appropriation for Metro under our bill to demonstrate to all the families, friends, and associates, and to current riders that this tragedy has already had immediate effects for assuring the safety of our transportation system.

May I thank you again, Mr. Chairman, for your consistent attention to this system.

Mr. LYNCH. I thank the gentlelady.

I would now like to ask unanimous consent to allow Mr. Mica from Florida, who I am told was a past chairman of this subcommittee, to allow him to join the panel and in today's discussion, as well.

Hearing no objection, so ordered.

At this time, I would like to recognize Mr. Mica from Florida for 5 minutes.

Mr. MICA. Well, thank you. And thank you for yielding.

And while I am on the full committee, I am no longer a member of this subcommittee, and I am pleased to be here to discuss an important topic. I also am the Republican ranking member of the full Transportation and Infrastructure Committee. And Ms. Norton and I also serve on that committee today. In that capacity, I did want to make some remarks.

And, first of all, I want to join others in expressing our sympathy to those that lost loved ones in the tragedy of the Metro crash. We don't know all of the details. I know NTSB is investigating. But, again, our heartfelt sympathy to those who lost loved ones or had family members injured in that tragedy.

And it is our important responsibility on this subcommittee, an investigative committee of Congress, and I applaud you for holding this hearing. I think it is very important that not just the Transportation Committee but an investigative committee take action, like you are doing here today.

It has been reported that the automatic train control system failed to detect a train waiting on the track. If the system had been working properly, possibly, again, the crash could have been avoided. NTSB will really investigate the crash and let us know.

However, we do know that other transit systems around the country rely on automatic train control systems, including San

Francisco, Boston, Baltimore, Atlanta, Philadelphia, and, in my State, Miami.

Last year, Congress and a lot of us worked on it together. We passed an Amtrak rail passenger, rail safety bill. And in that legislation, Congress required that within the next 6 years commuter rail trains, inner-city passenger trains, and freight trains carrying hazardous materials install similar positive train control systems. We have to learn lessons from tragedies like the one we have experienced here in the Washington community for rail safety around the country.

I do want to note for the record that, 3 years ago, the Highway and Transit Subcommittee held an oversight hearing on transit safety. And, at that hearing, the Government Accountability Office made a number of findings and argued for a more robust safety oversight program.

Unlike aviation, railroads, including commuter railroads, transit safety oversight is handled at the local level by State safety oversight agencies. This is because the Federal Transit Administration is a grantmaking agency; it is not a regulatory body.

Each rail transit system is different and has unique system specifications. The transit agency develops a system safety plan for each transit system. And the State's safety oversight agency directly oversees the safety of the transit system by reviewing safety plans, performing audits, and investigating accidents.

Some of you may not know this, but FTA currently does not permit expenditure of funds to support those safety offices and officers who have that responsibility. I am sending and some Members have already joined me in sending this letter to the FTA Administrator today. And it is as follows. Let me paraphrase it here.

We understand that the Federal Transit Administration administrative policy prohibits transit agencies from using their Federal grant dollars to support expenses of the State safety offices that directly oversee the safety of transit systems. Again, according to a GAO report from our committee, these State safety offices are often inadequately funded and staffed. I think in Washington Metro, up until about a year ago, they had about one position; now they have two. And, again, they are prohibited from taking these Federal dollars. And it is not by law, it is by policy.

However, given what occurred last year with, I guess, the Boston Green Line and also with the Washington Metro system recently, we feel it is important that these safety offices be strengthened. So we recommend in this letter here that the Federal Transit Administration work with us to provide those agencies, again, the flexibility to utilize some of the dollars, maybe a small percentage, for some of these important positions.

So I will be asking other Members to sign this and send this.

And I think that the final concern that I have here, Members, is that Mr. Oberstar and I have been trying to get a major highway and transit bill passed. The current one we operate under expires in just a few months, at the end of September. The administration has now said, while we are in the process of drafting this thing, sort of dropped a bomb on us and said, let's extend this for 18 months.

What will happen is all of these safety projects, all of our transportation projects, our major transit projects and major highway and infrastructure projects will be put on hold for 2 years. And if we wanted to mandate changes by law, we would have a tough time doing so.

So I urge everyone to work with Mr. Oberstar and myself to try to move that legislation forward. I urge Members to sign this letter, because we don't need legislation to get FTA to do what they should be doing, is allowing more flexibility and the use of these Federal funds for safety oversight purposes.

Thank you so much for the courtesy extended me, Mr. Chairman.

Mr. LYNCH. Would the gentleman like to have the letter added into the record?

Mr. MICA. I would. And I appreciate it. And I will also ask other Members to sign. Thank you so much. I ask unanimous consent.

Mr. LYNCH. OK. I ask unanimous consent that the gentleman's letter be entered into the record.

Without objection, so ordered.

[The information referred to follows:]

JOHN L. MICA
7TH DISTRICT, FLORIDA

Congress of the United States
House of Representatives
Washington, DC 20515-0907

July 14, 2009

The Honorable Peter Rogoff
Administrator
Federal Transit Administration
U.S. Department of Transportation
Washington, D.C. 20590

Dear Administrator Rogoff,

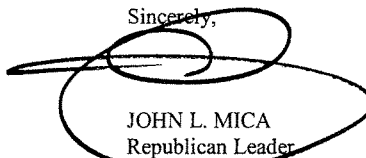
We understand that a Federal Transit Administration administrative policy prohibits transit agencies from using their federal grant funds to support expenses of the State Safety Office agencies that directly oversee the safety of transit systems.

According to a July 2006 Government Accountability Office report for the Transportation & Infrastructure Committee, these State Safety Offices are often inadequately funded and staffed. Transit is a very safe mode of transportation, and rail transit accidents are extremely rare. However, given last month's fatal accident on the Washington Metro system, the May 2008 fatal accident on the Boston Green Line trolley, and other infrequent but disturbing accidents on transit systems around the country, we feel it is important that these State Safety Offices be strengthened.

We strongly recommend that the Federal Transit Administration work with us to provide flexibility for transit agencies to utilize a percentage of their federal funds for State Safety Oversight agency support. We are also interested in any suggestions that the FTA has for improvements to safety on the nation's transit systems.

There were more than 10.7 billion transit trips in 2008. These riders deserve the highest possible level of safety. We look forward to working together with you to achieve this goal.

Sincerely,

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke.

JOHN L. MICA
Republican Leader
Committee on Transportation & Infrastructure

Mr. LYNCH. The Chair now recognizes the gentleman from California, Mr. Issa, for 5 minutes.

Mr. ISSA. Thank you, Mr. Chairman. And I ask unanimous consent that my full opening statement be placed in the record.

Mr. LYNCH. Without objection, so ordered.

Mr. ISSA. Mr. Chairman, we are honored today, as Congresswoman Norton said, to have Mr. Davis here. Mr. Davis, when he was Chairman Davis, championed the Metro system and continued to do so until his departure last year. As I will predict, Congressman Davis would rightfully so say, "If you can't get it right in D.C., you can't get it right in public trains around the country."

There is a proposal in the stimulus package just passed a few months ago to put a mag-lift type of train, a high-speed, 200-mile-an-hour train between Orange County and Las Vegas. It is pretty clear that we have fundamental problems with going 59 miles an hour with absolute safety in Washington, DC.

Here, today, we are going to hear about how the accident happened, how it won't happen again. But, more importantly, I think this is an opportunity for us to look at a 30-plus-year-old system, since 1973 when the whole Metro system began being rolled together, and say, have we done all that we can do?

I know that Chairman Davis did all he could do on his watch. But I do believe that Washington, DC, a compact city with a large ridership that comes in to Federal systems or in and around the city every day, commuters who, by both their own choice and by incentives from the Federal Government, essentially in most cases free passes, want to use this system and want it to be 100 percent safe and 100 percent reliable.

Mr. Chairman, I believe that we, as a committee, have a special obligation to look at this system. But I believe that what we get right in this system, including the full funding of all the safety requirements, in fact is essential for all systems around the country.

And I, like many people—everyone has a solution when they come after a tragedy like this. I might strongly suggest to this committee that we bear in mind that there are billions of unspent stimulus dollars that are, in fact, earmarked for train transportation that will not be spent in the near future and might very well still be redirectable to meet the needs of getting the Metro system both safe and reliable at the level that we believed we were at and believe we should be at.

I look forward to hearing our panel. And I thank the chairman for holding this important hearing, and yield back.

Mr. LYNCH. I thank the gentleman.

Before we swear our witnesses, I want to ask, if Mr. Tuite is here, come forward.

Mr. Tuite was an eyewitness on the day of the accident. We will entertain him when he does arrive.

It is the custom in this subcommittee to swear witnesses who are to testify. May I ask you all to stand and raise your right hands? [Witnesses sworn.]

Mr. LYNCH. Let the record reflect that all of the witnesses have answered in the affirmative, with the absence of Mr. Tuite, who will be sworn when he arrives.

And your entire statement will be included in the record.

Mr. Davis, I am sure you don't need to be instructed in this matter, but the green light indicates that each witness has 5 minutes to summarize your statement. The yellow light means you have 1 minute remaining to complete your statement. And the red light indicates that your time for speaking has expired.

Originally, I had offered the courtesy to Mr. Connolly to introduce Mr. Davis. And here he is. Perfect.

Mr. ISSA. Gerry, you are a little late. We were just about to give your seat away.

Mr. LYNCH. The gentleman is right on time, as always.

The Chair would now like to recognize the gentleman from northern Virginia, Mr. Connolly, for the purposes of introducing Mr. Davis.

Mr. CONNOLLY. Thank you, Mr. Chairman. And thank you, as ever, for your graciousness.

It is a great privilege for me to sit up here and welcome back to this committee our distinguished former chairman, Tom Davis.

Tom Davis and I have followed in each other's footsteps. He was a longtime member of the Board of Supervisors of Fairfax County, then became the chairman of Fairfax County, and then took this congressional seat. I also was a longtime member of the Fairfax County Board of Supervisors, succeeded Tom as chairman, and then of course succeeded him in this seat.

Tom has been a friend and mentor. He has shown bipartisan inclinations that are deeply appreciated. And I want to say personally, in my transition to this job, Tom Davis could not have been more gracious and more generous, he and his staff.

And I just want to thank him and thank him for his leadership on Metro. Without Tom's visions, this Congress would never have come up with the idea of a \$150 million matching grant to the localities putting up capital money for Metro.

As the tragedy of June 22nd underscored, Metro is starved for capital investment. And the Federal Government bears some responsibility, as do the localities, in trying to address that investment shortage. And, again, I salute my predecessor, Tom Davis, for his understanding of that issue, his vision for what had to be done, and his willingness to make sure that this Congress lives up to that obligation.

Welcome back, Tom.

STATEMENTS OF HON. TOM DAVIS III, A FORMER REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA; JACKIE JETER, PRESIDENT, AMALGAMATED TRANSIT UNION, LOCAL 689; AND WILLIAM MILLAR, PRESIDENT, AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

STATEMENT OF HON. TOM DAVIS III

Mr. DAVIS. Thank you very much. Thank you, Representative Connolly, in your continued commitment to public service. We have fought a lot of battles, usually together, not always, as local politics go.

Chairman Lynch, thank you for calling this hearing. It is timely, it is important.

Let me thank Ms. Norton, Mr. Issa, who helped us pass this legislation first in 2006 and then in 2008, and we finally got it through the Senate and into law.

And to Ranking Member Chaffetz, it is nice to see you again, and thank you for your leadership, as well.

We saw early on, with GAO reports, that Metro has a \$6 billion shortfall in terms of its capital funding need, and there was no way that this could have been raised within the existing system. Fares would not have supported it.

So the legislation simply bit off part of that, \$3 billion: \$1.5 billion paid for by the Federal Government over 10 years; \$1.5 billion in matching funds—dedicated matching funds from localities. Prior to the legislation, there was no dedicated funding. Metro got what it got on an annual basis. And when local governments cut their budget, Metro suffered as a result.

This has put, I think, a needed discipline on local governments to get the match. And I was just thrilled to hear that Chairman Olver put in the \$150 million last night in the transportation appropriation bill. This is a precedent for the next 10 years that I think will go a long way toward making the Metro system safer and stronger.

I also want to offer my condolences to the friends and the families of the nine Metro passengers who were tragically lost in last month's crash. And for those that are injured, I wish them a speedy recovery.

You know, as policymakers, like it or not, we bear some responsibility in funding and some of the shortfalls the system has had over time. And I think, if anything else, we want to learn from this. We don't want this to happen again.

So let me go briefly over what the legislation called for and what remains to be done and how we can continue to make this a safer and a better system here in the Nation's subway system.

First of all, the Congress, last night, put in \$150 million for the fiscal year. The localities have already come up with their match. An independent IG was established under the legislation so that Metro—it wouldn't be looking at itself. You would have an independent inspector general, which we think helps their operations and keeps them on their toes, something that I think was overdue. Metro actually—we introduced the legislation. Metro actually acted on their own to establish this, but the legislation mandates it.

Finally, Federal representation on the Metro board was an important concept, and that has not taken place yet. It hasn't taken place because Congress has not adopted the changes to the Metro compact. Representative Hoyer has pending legislation that will do that. All three of the States have amended the Metro compact through their State legislatures and city counsels. Now the Federal Government has to do it, and I think as quickly as possible so the President can appoint two Federal members to the Metro board.

Now, why is this important? It is important because, although Virginia and Maryland and the District have representatives on this subway system, the natural tendency—and I have been in local government for 15 years before I came here—is to be rather provincial in terms of how you look at the system. Is it good for Maryland? Is it good for Virginia? Is it good for stations in my dis-

trict? Having that Federal representation on there, that Federal expertise, I think will add a level, if you will, of maturity and a level of analysis that I think will be helpful to this system. The President has to make good appointees, but I think we can count on them to do that. So that has to happen, as well.

The legislation also expanded wireless service on the Metro system. Prior to this, it was reserved for one operator. This expands it. We think this is helpful, particularly in cases of accidents and crime.

Finally, let me say that I think the NTSB has identified some improvements that need to be worked on immediately: this new signaling system, monitoring and tracking systems. I think there is stimulus money available. It would be helpful if the Congress pushed to get a slug of money up there, right there, to make these changes right away so that the kind of tragedy that happened on June 22nd will not happen again and we can make those changes.

Other than that, I want to thank the Members up here in the House for being so supportive of Metro over the years. It was the Senate that held the legislation up for 4 years. And you all have been great to work with.

Thank you.

[The prepared statement of Hon. Tom Davis III follows:]

**Statement of the Honorable Tom Davis
Subcommittee on Federal Workforce, Postal Service, and the District of Columbia
Committee on Oversight and Government Reform
United States House of Representatives
Washington, D.C.**

**Hearing on Washington Metropolitan Area Transit Authority Metrorail Accident
July 14, 2009**

Thank you Chairman Lynch for holding this hearing and for the opportunity to share a few observations regarding Metro. It's good to be back and to see old friends.

As former chairman of the District of Columbia Subcommittee, then as Chairman of the full committee, and then Ranking Member, I know full well the difficult challenges you face. I want to wish you all every success in dealing with the serious issues on your agenda.

I would like to begin by offering my condolences to the friends and families of the nine Metro passengers tragically lost in last month's crash. For the injured, I wish a speedy recovery.

Like the rest of us in the Metropolitan Washington region, I was saddened and disturbed by the news of the collision on the Red line. As a resident of this area, I know the important role Metro plays in our daily lives. I also appreciated the extent the region – and federal government – relies upon Metro to keep the wheels of government turning.

As you well know, this committee is charged with overseeing matters pertaining to the District of Columbia, the federal workforce, and the day-to-day operations of the federal government. The Washington Metro system plays a significant role in all of these issues – one could say a Metro line runs through the heart of this committee's jurisdiction. Thus, during my tenure on this committee, Metro's organizational, operational, and financial wellbeing was one of my top priorities.

The federal government and Congress played leading roles in the creation and construction of the Metro system. President Eisenhower first called for a plan for a rapid transit system to serve the needs of the federal

government; Congress authorized and appropriated funding to build the system.

Metro was intended to be a system fit for the capital of the free world – not as ornate as Moscow’s – but still, different from most others. For years, Metro has served its intended purpose well; however, years of operation and increased demand are clearly catching up with it.

Under former Metro general manager Dick White, Metro began to make the case that continued safe, reliable service would require a significant federal reinvestment to fund capital projects for both bus and rail. In addition, an important piece by Brookings fellow Robert Puentes highlighted the fact that the Washington Metro was unique among major transit systems in that it derived almost no funding from dedicated sources. Rather, it relied upon a hodge-podge of appropriations processes in the various jurisdictions of the WMATA compact. GAO studies also highlighted the lack of capital planning and its impact on system maintenance. The result was, and still is, a hat-in-hand approach that makes long-term capital investment difficult.

After a series of hearings, I first introduced HR3496, the National Capital Transportation Amendments, in 2005. This legislation passed the House in both the 109th and 110th Congresses. Finally, in 2008 it passed the Senate after having been included with the Rail Safety Act; it was signed into law in October of that year.

This legislation authorized \$1.5 billion for various capital improvements. Of this amount, the most pressing need was for the purchase of new rail cars.

It also shored up management of the system by creating an Inspector General position and putting on the Metro Board four federal representatives-two voting, two non-voting - to represent the interests of the federal government.

Metro has since created the office of Inspector General, and I commend General Manager John Catoe and the Metro Board for doing so.

The legislation required that Virginia, Maryland, and the District of Columbia formally dedicate funding to the system before Metro receives the new federal funding. The local jurisdictions have now done so.

In view of the tragic accident which occurred on the Red Line last month, I believe the legislation we enacted is more important than ever and needs to be fully implemented.

I commend the members of the regional delegation for their efforts to highlight this continued need, and I call upon the Obama administration and the current Congress to follow-through. Now, more than ever, Metro needs their combined leadership.

I was disappointed neither the recently passed stimulus nor the FY10 budget included funding for the Metro authorization. Trains and buses must be replaced. Platforms are crumbling, and other facilities need immediate attention. The system needs the dollars we authorized

In addition, while the localities have approved legislation to amend the Metro Compact in accordance with the requirements of the \$1.5 billion authorization bill, Congress has yet to ratify these changes. I am grateful my friend and former colleague Mr. Hoyer has introduced legislation to accomplish this. It needs to be acted on as soon as possible.

In closing I will simply reiterate that Congress and the administration must continue the support for Metro that began so long ago. The federal government relies on Metro on a day-to-day basis as well as during emergencies. Emergency or not, the federal government and the Washington Region simply would not be able to function without Metro.

Fact is, Metro needs cash and they need it now. No amount of finger pointing or hand wringing can change that. The localities have stepped up to the plate. It's time for the administration and Congress to do the same.

Thank you.

Mr. LYNCH. I thank the gentleman.

And I want to add to Mr. Connolly's remarks about you, Mr. Davis, and how, as chairman of this committee, you were very fair and bipartisan and provided a great example, I think, of strong leadership in the Congress during your time here.

At this point, I would like to introduce Ms. Jackie Jeter. She is the president of the Amalgamated Transit Union, Local 689. Ms. Jeter began her career with the Transit Authority as a part-time bus operator in 1979 and has worked as a full-time bus operator, train operator, and interlocking operator. Ms. Jeter is a member of today's women's caucus of Local 689 and has the distinction of being the first female assistant business agent of Local 689.

And I also want to express my heartfelt sympathies for you and your members. I know you lost a valued member of your local union, Local 689, in Jeanice McMillan on the day of this accident. And we understand that her conduct at the time of this accident, in slowing the train down, may have saved lives, in terms of her own action here.

But, again, we thank you for your attendance here. And you are now recognized for 5 minutes for an opening statement.

STATEMENT OF JACKIE JETER

Ms. JETER. Thank you, Mr. Chairman. Good afternoon, Mr. Chairman, ladies and gentlemen of the committee. It is my honor to serve as a witness before you today.

As a rail operator of 22 years and as president of the Amalgamated Transit Union, Local 689, I am deeply and personally affected by the tragic WMATA rail accident of June 22nd. I join my union members and others to urge swift corrective actions.

We stand ready to help find solutions, improvements, and technological advancements capable of advancing the problems of the aging WMATA system. I firmly believe that we cannot afford to spend time on expensive studies and multiple meetings, but must instead move into implementation mode without further delay.

When the National Transportation Safety Board's report from its investigation into the June 22nd accident is in hand, we will have a much better idea of what went wrong and how to resolve those problems. I urge the committee to be cautious about drawing any conclusions from this hearing. I believe that it would be premature to publicly conjecture about the causes of the crash.

I also call on WMATA and the NTSB to be transparent in their investigation for the sake of the workers, the public, and policy-makers.

Local 689's motto is "We Make It Work." Jeanice McMillan, the operator killed in the crash, embodied that spirit. Her actions epitomized the heroism sometimes required of our members.

Safety is the No. 1 priority of Local 689. It is what we work hard to deliver every day to every rider on the buses and trains. As president of the workers union, one of my primary goals is to ensure that every worker receives appropriate safety measures and training from WMATA.

While we do not yet know the exact causes of the accident, there were troubling patterns of WMATA's responses to previous NTSB recommendations. Since the first fatal accident on WMATA in

1982, the NTSB has recommended installing car-borne monitors in every WMATA car to provide advanced performance data for every department. None of the 1000-series cars in the system are so equipped, including those involved in the accident.

After the 1996 Shady Grove accident, the NTSB recommended WMATA evaluate all series of Metrorail cars with respect to resisting car body telescoping and providing better passenger protection, and make the necessary modifications.

After the 2004 Woodley Park accident, the NTSB made a specific recommendation to either retire or retrofit the Rohr-built 1000-series cars based on their crash worthiness. WMATA again failed to comply with these recommendations, citing costs and binding lease agreements through 2014.

The NTSB made an urgent recommendation to include specific instructions when responding to rollback situations, and WMATA responded that it would not address the issue. The recommendation was left as “open, unacceptable response,” in the NTSB reports.

It is unfortunate that the NTSB can do little more than make recommendations based on these findings. It has no power as an agency to enforce any of its own suggestions. Furthermore, there is no independent body with oversight of WMATA other than Congress.

Over the years, Local 689’s leadership has continually made suggestions to WMATA for procedural and equipment changes. WMATA is allowed to choose, ignore, defer recommendations until it deems the time ripe for implementation. Safety should not fall victim to fiscal constraints or internal priorities. Any legislation for the WMATA system should include regulations, enforcement, and oversight.

WMATA is heavily constrained by its funding—and I see that my time is running out—and I believe that funding is important for WMATA. We need dollars. It is an aging infrastructure, and in order to make that infrastructure work for the members of Local 689 and all of the employees of WMATA, we have to put the money where this Nation wants it. If public transportation is something that we need—and we sorely need it; based on the economy itself, it has been proven that public transportation is needed—then we need to put the dollars where it is needed.

And I thank you so much for this opportunity.

[The prepared statement of Ms. Jeter follows:]

Testimony of
Jackie Jeter, President
Amalgamated Transit Union Local 689
Before The Subcommittee on Federal Workforce, Postal Service, and the District
of Columbia
Tuesday, July 14, 2009

Good afternoon, Mr. Chairman, ladies and gentlemen of the committee. It is my honor to serve as a witness before you today. As a rail operator of 22 years, and as President of the Amalgamated Transit Union, Local 689, I am deeply and personally affected by the tragic WMATA rail accident of June 22nd. I hope my testimony today will help ensure that steps are taken to prevent such catastrophes from occurring in the future. I join my union members and others to urge swift, corrective actions. We stand ready to help find solutions that provide improvements and technological advancements capable of addressing the problems of our aging WMATA rail system. I firmly believe that we cannot afford to spend time on expensive studies and multiple meetings but must instead move into the implementation mode without further delay.

When the National Transportation Safety Board's (NTSB) report from its investigation into the June 22nd accident is in hand, we will have a much better idea of what exactly went wrong and how to resolve those problems. With that in mind, I urge the committee to be cautious about drawing any conclusions from this hearing. I believe it would be premature to publicly conjecture about the causes of the crash. I also call on WMATA and the NTSB to be transparent in their investigation for the sake

of the workers, the public, and policymakers. In order for us to arrive at meaningful solutions, and maintain the public trust, transparency is essential.

Local 689's motto is **We Make It Work**. Jeanice McMillan, the operator killed in the crash, embodied that spirit. Her actions epitomized the heroism sometimes required of our members— she stayed at the controls trying to save lives right up until the end. Safety is the number one priority of Local 689; it is what we work hard to deliver every day, to every rider on our buses and trains. As President of the workers' Union, one of my primary goals is to ensure that every worker receives appropriate safety measures and training from WMATA.

While we do not know yet what the exact causes of the accident were, there are troubling patterns of WMATA's conduct in response to previous NTSB recommendations. Since the first fatal accident on WMATA in 1982, the NTSB has recommended installing car-borne monitors in every WMATA car to provide advanced performance data for every department¹. Such data is also invaluable in the event of an accident. However, WMATA has yet to install these devices on every car². None of the 1000-series cars in the system are so equipped, including those involved in the accident³. After the 1996 Shady Grove accident, the NTSB recommended WMATA "evaluate...all series of Metrorail cars with respect to resisting carbody [sic] telescoping and providing better passenger protection, and make the necessary modifications such

¹ NTSB Safety Recommendations to Richard S. Page, WMATA General Manager, January 13, 1982, Page 6, R-82-74

² NTSB Safety Recommendations to Richard A. White, WMATA General Manager, November 14, 1996, Pages 5 and 8, R-96-39

³ Debbie Hersman, NTSB member, public statement June 23, 2009

as incorporating underframe bracing or similar features, to improve the crashworthiness of cars in the current and future Metrorail fleet⁴."

After the 2004 Woodley Park accident, the NTSB then made a specific recommendation to either retire or retrofit the Rohr-built 1000-series cars based on their crashworthiness⁵. WMATA again failed to comply with these recommendations, citing costs and binding lease agreements through 2014⁶. Also in the Woodley Park report, the NTSB made an urgent recommendation to include specific instructions when responding to rollback situations, and WMATA responded that it would not address the issue. The recommendation was left as an "Open – Unacceptable Response" in the NTSB reports⁷.

It is unfortunate that the NTSB can do little more than make recommendations based on its findings; it has no power as an agency to enforce any of its own suggestions. Furthermore, there is no independent body with oversight of WMATA other than Congress. Beyond the WMATA Board composed of representatives from the Metropolitan Washington jurisdictions that are serviced by the transit system, no organization can demand compliance with NTSB safety recommendations or require their implementation.

⁴ NTSB Safety Recommendations to Richard A. White, WMATA General Manager, November 14, 1996, Page 8, R-96-37

⁵ NTSB Rail Road Accident Report, March 23, 2006, Page 52, R-06-2

⁶ NTSB Safety Recommendation History for R-06-002, WMATA, Page 1

⁷ NTSB Safety Recommendations to Daniel Tangherlini, WMATA Interim General Manager, April 19, 2006, Page 4, R-04-9

Over the years, Local 689's leadership has continually made suggestions to WMATA for procedural and equipment changes; specifically, we have asked WMATA to identify one specific stop location on platforms for all trains. This would reduce doors opening outside the platform limits, which creates hazards for riders and employees.

The consistent stance of WMATA vis-à-vis both the Union and NTSB is untenable and has meant that WMATA is allowed to choose which recommendations it will accept and act on and which it will ignore or defer until it deems the time ripe for implementation. In other words, WMATA unilaterally decides what will be fixed and when. Safety becomes the victim of fiscal constraints or other internal priorities. Any legislation for the WMATA system should include regulations, enforcement and oversight.

Though the media has made much of WMATA's refusal to retire or retrofit the 70's era 1000-series rail cars, WMATA is, in fact, heavily constrained by its funding. Unique among other major transit systems, WMATA has no dedicated Federal funding. It is funded solely by the jurisdictions it serves. While it has been estimated that WMATA will need an estimated \$11 billion for capital improvement over the next ten years, the sources of those funds have yet to be identified⁸. Federal funding has been an uphill road for WMATA. The long anticipated appropriation authorized by Congress last year, was not in President Obama's first budget plan this year, thus, no new funds have been made available⁹.

⁸ John Catoe, Metro General Manager, public statement September 22, 2008

⁹ "Crash Raises Political Questions Over Metro Funding," by Michael Laris, Washington Post, June 25, 2009

For WMATA to continue operating safely, legislation must be passed that invests money and resources in our system. This demand is being confronted beyond the Washington Metropolitan Area by transit systems nationwide. The "Safe, Accountable, Flexible, and Efficient Transportation Equity Act – A Legacy for Users" (SAFETEA-LU) is up for reauthorization. I believe this could be a tool to help solve the operational problems facing WMATA and every other transit system in the nation. The Amalgamated Transit Union's legislative agenda states in part, that H.R. 2497, the 'Transportation Job Corps Act of 2009'... "is intended to be a career ladder grant program within the FTA to help existing workers retain jobs while recruiting and preparing young adults across the nation for jobs in the transit sector."

As the demand for public transportation continues to grow and the current workforce ages out, the Job Corps Act of 2009¹⁰ would provide highly trained new workers to safely operate our transit systems. More training for current operators will also ensure the safe and efficient operation of our transit systems. In that regard, it is important to maintain and raise salaries for these skilled positions so that we can hire and retain the best and brightest in the field.

It is critical that Congress act to increase transit funding by twenty percent annually. This is the only way we will be able to maintain transit systems, ensure safe and efficient operations, train current and new workers, update aging equipment and address other funding demands.

¹⁰ H.R. 2497, May 19, 2009

States should also be allowed to use Federal funds for operational expenses. As all other public services, the transit systems throughout this country cannot function without a paid workforce. It is disingenuous to talk about operating a transit system without incorporating "labor costs" in the equation. Jeanice McMillan was a woman, a mother and a train operator. Without her heroic efforts, there might have been more deaths. The transit systems in this country are operated and maintained by people who we must expect to pay for their time and skills. As a former train operator, I brought highly developed skills to my job with the expectation that I would be compensated accordingly. I cannot imagine that my role as president of the union would require me to apologize or minimize the right to a decent salary for everyone working to provide this service to the public. I urge Congress in the strongest terms to allow the use of Federal funds by local agencies to pay labor costs. It makes little sense to prevent local agencies from using money where it is often most needed.

Legislative action that invests necessary resources and vision in the WMATA system and public transit across the country is essential to the future of America. This investment is two-pronged: enforcement to guarantee a safe system and adequate funding to properly maintain, upgrade, and guarantee effective operations. We cannot run a world-class transit system on a shoestring budget. The ten thousand area workers I represent as well as the millions of riders that depend on WMATA everyday deserve a safe, well-funded public transportation system. Our operators should not have to unduly risk their lives because of safety regulations left unenforced.

The June 22 crash was a tragic accident. It would be a great disservice to the families and memory of those who lost their lives or suffered injuries if this deadly wreck did not spur improvements in the system to ensure it never happens again.

Thank you very much for inviting me here today. I hope my testimony increases your understanding of the needs of the transit system in the Washington Metropolitan area. We deeply appreciate that Congress has provided a forum to address the challenges underscored by the June 22nd accident and the union's hope for the future of public transportation in America.

Mr. LYNCH. I thank the gentlelady.

Our next witness is Mr. William Millar, who joined the American Public Transportation Association in 1996 and has worked to increase Federal investments in public transportation.

From 1973 to 1977, Mr. Millar worked for the Pennsylvania Department of Transportation, where he created Pennsylvania's free transit program for senior citizens. Mr. Millar also spent 13 years as the executive director at the Port Authority of Allegheny County.

Mr. Millar, you are recognized for 5 minutes.

STATEMENT OF WILLIAM MILLAR

Mr. MILLAR. Thank you, Mr. Chairman. And let me thank you for holding these hearings today. And I appreciate very much the opportunity to be here on behalf of the public transportation industry.

You know, when a terrible tragedy such as the one that is the subject of this hearing occurs, all of us certainly feel a great loss. We feel certainly great sympathy, and our prayers and our sympathies go out to the victims, to their families, to their loved ones. It is a tragedy like this that causes us to take a step back, to examine what we do, to see how we might improve the way we do things in order to prevent these types of accidents from happening.

As others have already said, we do not yet know the exact causes, but that shouldn't stop us from taking prudent steps to move forward. And I know later in this hearing you will hear testimony from WMATA and others about steps that are being taken.

Our association stands ready to support WMATA, this committee, and any other bodies involved here in trying to make our systems safer.

Now, notwithstanding the terrible tragedy we are discussing today, Americans are using public transportation in modern record numbers. There are many reasons why Americans are using public transit, but there is one undeniable common thread: Tens of millions of customers rely on public transportation every day because our systems are fundamentally safe, but, as this terrible tragedy demonstrates, they can always and must be made safer.

Years of proven performance records have instilled a confidence in the riding public that our systems will transport them safely. I continue to use Metrorail for my commute on a daily basis because it is a safe system and because the alternatives are much less safe.

The U.S. Department of Transportation data shows that a person is 29 times safer when using heavy rail public transportation such as WMATA operates rather than taking the same trip in an automobile.

Further, the congressionally created National Surface Transportation Revenue and Policy Study Commission indicated that highway travel accounts for over 94 percent of all fatalities and then 99 percent of all injuries on the Nation's surface transportation system.

This data clearly indicates that the public's trust in public transportation is not misplaced. Public transit is one of the safest modes of transportation available.

But, numbers and statistics aside, nothing is infallible. Therefore, APTA and its members remain vigilant in continuing our commitment to advancing transit safety and promoting the safety operation of rail transit systems.

I have been asked to comment on several areas by the committee regarding safety standards and procedures in the industry. Please note, I am not speaking of WMATA specifically but rather presenting information generally about the industry, much of which would be applicable to WMATA.

For decades, we have been the leading force in developing safety programs and standards for public transportation operations, maintenance, and procurement. In the 1980's, APTA was asked by the rail transit industry and FTA's predecessor, the Urban Mass Transportation Administration, to develop a standardized program for rail transit safety, which we established under the auspices of what was then known as the Rail Safety Review Board.

APTA's commitment to safety was also the basis for our standards development program initiated in 1996, which currently include standards for rail transit, commuter rail, bus operations, procurement, intelligent communications interface, and security.

Our organization has been designated as a standards development organization [SDO], by the U.S. Department of Transportation and is funded, in part, through grants from the Federal Transit Administration.

Congress has also officially recognized the importance of promoting voluntary, industry-based standards as a way of creating uniformity within the legal and regulatory structure of the United States.

My written testimony contains much more detail on the nature of these standards, the process that is used, and things of that sort.

I do think it is important to realize we don't rely just on our own members or our own expertise. We involve many other organizations, such as the American Society of Mechanical Engineers, the Institute of Electrical and Electronic Engineers, the American Railway Engineering and Maintenance Association, and a host of others, as well as working with the Federal Transit Administration, the Federal Railroad Administration, the National Transportation Safety Board, and others in developing these standards.

To date, we have published over 170 rail standards in categories applicable to heavy rail transit and such as those used by WMATA. The heavy rail crash worthiness standard developed by the American Society of Mechanical Engineers in corroboration with APTA is a good example, developed after some 5 years of work at the professional level.

Now, there is much more in my written comments. I appreciate I have exhausted my time here, and I would certainly look forward to answering any questions you might have. Thank you, sir.

[The prepared statement of Mr. Millar follows:]

TESTIMONY OF
WILLIAM MILLAR, PRESIDENT
AMERICAN PUBLIC TRANSPORTATION ASSOCIATION
BEFORE THE
SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE AND THE
DISTRICT OF COLUMBIA
OF THE
HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

JULY 14, 2009

SUBMITTED BY

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The American Public Transportation Association (APTA) is a nonprofit international association of over 1,500 public and private member organizations, including transit systems and high-speed, intercity and commuter rail operators; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and state departments of transportation. APTA members serve the public interest by providing safe, efficient and economical transit services and products. More than 90 percent of the people using public transportation in the United States and Canada are served by APTA member systems.

INTRODUCTION

Chairman Lynch, Ranking Member Chaffetz and members of the subcommittee, on behalf of the American Public Transportation Association (APTA), I thank you for the opportunity to testify today on the safety of our nation's public transportation systems and the steps APTA and the transit industry are taking to ensure the continued safety and reliability of our nation's transit systems for our riders.

ABOUT APTA

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OVERVIEW

Americans are using public transportation in modern record numbers. Despite significant declines in gasoline prices, high unemployment, a general economic downturn, and lower state and local revenue, approximately 2.6 billion trips were taken on public transportation in the first quarter of 2009. This figure nearly matches last year's record usage. Among the many reasons why the American public chooses to ride public transportation, there is one undeniable common thread. The United States continues to rely on public transportation because our systems are safe. Years of proven performance records have instilled a confidence in the riding public that our systems will transport them safely. The Federal Transit Administration (FTA) has reported that for the period from 2002 to 2008, heavy rail passenger fatalities occurred at a rate of .03 per 100 million passenger miles. In contrast, the Federal Highway Administration (FHWA) has reported that from 2003 to 2007, passenger automobile fatalities occurred at rate of 0.87 per 100 million passenger miles. In other words, one is 29 times more likely to die from using an automobile for travel than when using heavy rail public transportation. Furthermore, in its final report, the Congressionally created National Surface Transportation Policy and Revenue Study Commission indicated that highway travel accounts for 94 percent of all fatalities and 99 percent of injuries on the Nation's surface transportation system. This data clearly indicates the public's trust is not misplaced -- public transit is among the safest methods of transportation available to travelers. Numbers and statistics aside, nothing is infallible. Therefore, APTA and its members remain vigilant, continuing our commitment to advancing transit safety and promoting the safe operation of rail transit systems.

APTA AND SAFETY STANDARDS

For decades, APTA has been the leading force in developing safety programs and standards for public transportation operations, maintenance, and procurement. In the 1980's, APTA was asked by the U.S. rail transit industry and the FTA's predecessor, the Urban Mass Transit Administration (UMTA) to develop a standardized program for rail transit safety, which we established under the auspices of the Rail Safety Review Board. APTA's commitment to safety is the basis for our Standards Development Program. Initiated in

1996, this program currently includes standards for rail transit, commuter rail, bus operations, procurement, intelligent communications interface, and security. Our organization has been designated as a Standards Development Organization (SDO) by the U.S. Department of Transportation and is funded, in part, through grants provided by the FTA.

Congress has also officially recognized the importance of promoting voluntary industry-based standards as a way of creating uniformity within the legal and regulatory structure of the United States. The National Technology Transfer and Advancement Act of 2005 (P.L. 104-113) encourages government agencies to work together with industry leaders to develop private, voluntary safety standards for federal grantees. APTA has answered this call by working together with the Federal Railroad Administration (FRA), the FTA and other federal agencies, public transit systems, academics, and a variety of outside experts to develop a wide-range of industry safety standards.

As an official SDO, APTA is required to adhere to policies specified by the American National Standards Institute (ANSI), an organization which serves as the administrator and coordinator of private sector voluntary standardization systems. Partnerships with other SDO's such as the American Society of Mechanical Engineers (ASME), the Institute of Electrical and Electronics Engineers (IEEE) and the American Rail Engineering and Maintenance of Way Association (AREMA), as well as a wide range of experts in the fields of transit system operation, car manufacturers, vehicle operations management, technical consultants, safety professional and government representatives, has allowed APTA to create and implement 170 consensus based standards providing the tools necessary for designing safe and efficient transit systems. Routine maintenance of these standards is required, with procedures in place to guarantee reviews are conducted on an ongoing basis to allow for necessary updates and amendments.

Of APTA's 170 rail standards, the categories applicable to heavy rail transit, such as the system operated by the Washington Metro Area Transit Authority (WMATA), include: Vehicle Inspection and Maintenance, Operating Practices, Fixed Structures Inspection and Maintenance, and Signals and Communications Inspection and Maintenance. The Heavy Rail Crashworthiness Standard, developed by the ASME in collaboration with APTA, highlights our vigorous and highly technical standards process. Released in 2008 after 5 years of development, the intent of this standard is to ensure that all occupants in rail cars are provided with an improved level of protection. The standard was developed using modern-day approaches to crashworthiness, including the application of the "Crash Energy Management" (CEM) concept, a method of vehicle structure design and manufacture that specifies certain sections of the car body that should absorb a portion of the energy of a collision by collapsing in a controlled manner. The application of CEM results in a vehicle design that absorbs energy at the point of impact while preserving occupant space within the vehicle and keeping the vehicle aligned on the track without override between cars. In addition to heavy rail crashworthiness standards, APTA has also worked to establish crashworthiness standards for light rail vehicles, collaborating again with ASME using funds provided by the Transportation Research Board, an organization affiliated with the National Academies.

It should be noted that APTA, ASME and other related contemporary standards applying to vehicle structures were not available for older vehicle designs. Vehicles designed and manufactured prior to the advent of such standards used best practices known at the time. Despite an absence of standards, common industry-based practices were still widely available and commonly applied. As technology advanced and new computer simulation tools became available, new standards were developed that enhanced the safety and

efficiency of transportation systems. The development of APTA's vigorous safety standards program highlights the industry's steadfast commitment to not only maintaining, but advancing the safety of public transportation, making a real difference to the management and operations of transit organizations around the world.

TRAIN CONTROL SYSTEMS

The underlying structure of the train control system used by WMATA has a proven record of safe performance for many years. This fundamental safety system technology also provides safe and effective service in other major cities such as Boston, Atlanta, Baltimore, Miami, Philadelphia and San Francisco.

These train control systems are simple in concept, but complex in implementation and reflect the significant technological advances in hardware and software applications. Rapid transit train control systems are comprised of 3 main elements that control train movement, enforce train safety and direct train operations. The first element is Train Protection, which is used by most systems around the world to prevent collisions. The train control system is mechanized through the deployment of track circuits which detect the presence of trains and communicate indications of occupancy to the wayside logic system. The wayside logic system in turn issues speed commands to following trains. The Train Protection system used by WMATA is automatic. The second element is Train Operation. The train operation system provides for the operation of trains in accordance with the parameters defined by the Automatic Train Protection system, and other operating parameters such as station stops. Many systems, such as WMATA, can employ this system either manually or automatically. The final element of a rapid transit train control system is Train Supervision. Train supervision provides for overall system management and is generally mechanized in a central control location where trains are monitored, dispatched and routed throughout the network. Some train supervision functions are operated manually, while others are automatic.

CONCLUSION

I once again thank the subcommittee for holding this hearing and for allowing me to share APTA's views today. Our members represent safe and reliable systems and are committed to ensuring the safety of all transit systems across the world. We urge the subcommittee to continue working with WMATA, the FTA, the NTSB and all involved parties to ensure a thorough investigation is completed and we stand ready to provide any technical expertise you may need. With that, I would be pleased to answer questions.

Mr. LYNCH. I thank the gentleman.

I now yield myself 5 minutes.

Let me just say that I know there are four or five Federal agencies that have shared responsibility here, and this has resulted in an inordinate amount of acronyms being used at this hearing. So I would just caution people to at least, before you use the acronym, just describe the full title of whatever that is you are referring to.

And for those listening or watching at home, "WMATA" stands for Washington Metro Area Transit Authority. And so you will hear that constantly referred to. WMATA is the Metro. Easier to understand it in that sense.

Let me ask, Ms. Jeter, you are in a unique position, I think. And I know we were introduced previously to Steve McDougall, who is the president of Local 589 in the Boston area. And we have had situations on the T in Boston with train collisions.

Now, I understand where we are on the Metro. And I am a rider, as well; I am a commuter. I don't have a car down here, so I find myself on the Metro quite a bit. But there are two systems, and one is to have a manual operating system where the conductor actually operates the train manually, and then there is an automated system that is used.

As I understand the circumstances of the most recent accident, Train 214, which was the first train in line, was being operated manually by that conductor, while the one that Ms. McMillan was operating, hers was on automatic.

Ms. JETER. Yes.

Mr. LYNCH. And the way it should have worked was that Ms. McMillan's train, 112, should have detected the train in front of her and should have automatically stopped the train or slowed it down. And, as I understand it, she visually made a report that there was a train ahead. So all the indications were that she recognized the threat but that, mechanically, the system did not work and it failed.

When you have this seeming conflict—and I am not sure why the first train was manually operated. Maybe that was a decision by the conductor in that case. I understand those signals weren't operating in that area, or they were operating intermittently in that area. It may have been a decision on the part of the conductor just to switch to manual operation. I am not sure.

But where you have this conflict, is there a way to safely resolve that? What are your own observations, having been in the seat yourself and being very, very familiar with the circumstances, for your conductors, for your employees? How best might we resolve that conflict between going in manual operation and automatic operation?

Ms. JETER. Well, Mr. Chairman, first of all, let me say that, under no circumstances, whether the train was in manual or in ATO, should it have happened. Safeguards are in place to protect that kind of accident from occurring whether you are in manual or in automatic.

I think that the operators are trained to know when it is best for them to move up in a manual or switch from automatic to manual.

And, also, from my experience and history as an operator, I have also seen where all you should have to do is let central know that you have encountered a problem. Once you let them know that you have encountered a problem, they know that manual operation is needed.

I believe in the system. I believe in it wholeheartedly. I, like you, believe that it is a safe system, although it should be safer at this point. But I do know that, under no—and I hope I answered your question, because, under no circumstances, should it have occurred, period.

Mr. LYNCH. I thank you.

And I now yield to the ranking member, Mr. Chaffetz from Utah, for 5 minutes.

Mr. CHAFFETZ. Thank you, Mr. Chairman.

Congressman Davis, if you could expand a little bit about the funding itself, what would happen if the funding were not to go forward, from your perspective and history?

And then the second part of that question is, is the funding alone going to solve the problem, or are there other challenges that you see above and beyond just the funding, lack of funding?

Mr. DAVIS. Money doesn't always solve problems by itself. That is why we put the independent IG into this legislation and Federal representation. We thought all of these would enhance oversight over the system, to help it being spent correctly along the way.

The history of this is it came under the old District of Columbia Committee. Every other transit in the country came under the Transportation Committee, Transportation and Infrastructure [T&I]. But this came under the old D.C. Committee. This goes back to the days of President Eisenhower.

And so, when we were putting together transportation bills, you know, whether it was TEA-LU or whatever the machination was, Metro's funding wasn't included in that. There was no grab-bag for Metro to get money outside of the annual Federal appropriation. So we want a separate route through this committee to get the authorization bill together. But that is one of the reasons I think that money was not as forthcoming.

Of course, second, although the Metro system operates in three different jurisdictions—D.C., Maryland, and Virginia—when it comes to transportation funding, it is a grab-bag. And whether it was under the Federal Transit Administration or UMTA, its precursors, we are not able to get it in the same way, because we weren't on the same list. We operated independently and separate. That is why Metro needed its own funding legislation that we put forward.

Mr. CHAFFETZ. But the consequence, if the funding doesn't happen—I mean, it wasn't in the President's first budget. If these things don't come to fruition, what do you see happening?

Mr. DAVIS. There is a \$6 billion documented need. Our legislation addresses \$3 billion of it, which is half Federal and half local dedicated revenue, which they never had before.

Under the President's budget, there would have been nothing in there originally. And that is why we are grateful that the House put it in. Nothing proceeds. By the way, if the Federal Government

doesn't put their \$150 million in, the local jurisdictions may decide not to, too. So it is almost a \$300 million hit.

But it looks like it is on its way.

Mr. CHAFFETZ. Ms. Jeter, let me ask you real quickly in the brief moments that I have here, as the chairman was talking about the manual versus automatic, can you talk a little bit about the morale and things that you are seeing happening now?

Because I really get concerned that when we have Federal employees and the public at large traveling here. Obviously, any crash is devastating.

You were quoted as saying, "We haven't received anything that would make us think this was an isolated incident. I do need to know that this is not going to happen again. I do have people out there who are afraid."

Ms. JETER. Yes. You know, as operators report to work every day, I think the main thing to remember is that we are trained to be professionals, but your own basic need for survival and your instincts kick in, you know, at some point.

And because early on in the investigation we had received information from different operators that there had been other instances where, even though a crash had not taken place, that their train did not respond to the commands, or the wayside equipment did not command the train as it should have. And so, for that reason, yes, we do have employees that are apprehensive about whether or not this will occur again.

But I do believe that, as professional as we all try to be in our occupations and as we report to our jobs, the operators will continue to work. Those who would like to go back to the bus and maybe don't have the stomach anymore for operating a train, I am sure that Mr. Kubicek will make sure that they have the opportunity to do so.

Mr. CHAFFETZ. And real quickly, I only have seconds left here, but maybe if each of the three of you could just address, what is the No. 1 thing you would like to see us do?

Mr. MILLAR. Well, certainly, as Mr. Mica said, getting good funding in place for safety, getting a long-term transportation bill with sufficient resources so not only WMATA but transit systems across the country can address their fundamental needs is critical.

Mr. CHAFFETZ. Thank you. Sorry, my time is short.

Ms. Jeter.

Ms. JETER. I think the funding is essential. No matter what you talk about, whether you talk about training, whether you talk about enhanced technology, you need dollars, no matter what.

Mr. DAVIS. Two things. First, adopt the Metro Compact amendments. The Federal Government has not adopted their share. I think that enhances the annual funding \$150 million, which is put in. And second, I think we ought to take a shot at some of the stimulus money and bring it right here to correct these problems right now.

Mr. CHAFFETZ. Thank you.

Thank you, Mr. Chairman.

Mr. LYNCH. I thank you.

I want to recognize that Mr. Tuite has agreed to join us now. Let me just do a brief introduction, and then I am going to have to swear Mr. Tuite so that he can respond to questions.

Mr. Patrick Tuite is currently the associate chair and head of the master's of arts program in theater and history and criticism at the Catholic University of America. He has also taught at the University of Notre Dame and the Ohio State University. At the time of this accident relevant to this hearing, Mr. Tuite was in the front of the second car of train 112, the one that actually came forward and then struck 214, and he helped people exit the train after the collision occurred.

Mr. Tuite, it is the custom of this committee to have witnesses sworn who are here to provide testimony. Could I ask you to stand and raise your right hand?

[Witness sworn.]

Mr. LYNCH. Let the record show that Mr. Tuite has answered in the affirmative.

I will now yield 5 minutes to the gentleman from northern Virginia, Mr. Connolly.

Mr. CONNOLLY. Thank you, Mr. Chairman.

Let me ask my predecessor Mr. Davis, if we don't amend the compact for Metro, is the Federal money tied up until we do?

Mr. DAVIS. No. My understanding is it's not tied up. One of the reasons the administration didn't fund it is because, under the law, without the compact being amended, they weren't obligated to fund it. But I think this just puts it in motion, and it makes it a lot easier to get money in the outyears. One hundred fifty million dollars in this environment is tough.

Mr. CONNOLLY. With respect to my colleague Mr. Chaffetz's question, is it not true that Metro has either the highest fare box recovery rate or the second highest in the United States; do you know?

Mr. DAVIS. Second highest.

Mr. CONNOLLY. So the users are, in fact, certainly paying their fair share.

Mr. DAVIS. I think they are, as somebody who uses it.

Mr. CONNOLLY. And until this legislation, most of the financial burden in terms of subsidies has fallen on the State of Maryland, the District of Columbia, and the localities in Virginia; is that not correct?

Mr. DAVIS. That is correct. That's where the subsidies come from, right out of local and State budgets.

Mr. CONNOLLY. Is there any other subway system in America that bears the brunt of almost 15 million visitors from all around the country, and indeed around the world, other than the Metro system?

Mr. DAVIS. Yeah, I mean, New York may. I don't know the answer, but New York has a State funding mechanism and a completely different mechanism. It was built at a different time in a different era.

Mr. CONNOLLY. And isn't it true, Congressman Davis, that perhaps the largest single beneficiary daily of the Metro system being here is, in fact, the Federal Government moving its Federal work force?

Mr. DAVIS. It's Federal Government moving its workers, it's tourists who come here to visit their Nation's Capital. You know, the Moscow subway system is an elaborate system, and they didn't chintz on it. They funded it; this was a statement of how they wanted the world to see their government. Unfortunately, I don't think it's been the same here.

Mr. CONNOLLY. I think that's really a good point. This is the Nation's Capital. It's arguably been called the capital of the free world. And the Federal Government has some responsibility, beyond the initial construction costs, to help make sure that system remains healthy and safe and, indeed, hopefully can be expanded in what is, after all, a nonattainment region in terms of air quality, with, by some measurements, the second worst congestion in the United States.

Mr. DAVIS. And that was President Eisenhower's vision, that this would be the Nation's subway system, it wouldn't just be another local subway system competing with all the other local subway systems.

Mr. CONNOLLY. Ms. Jeter, you were being asked about previous statements you made about the nervousness of the work force. And, of course, I do think it's important to put in perspective, the tragedy notwithstanding, in the 33 years of operation of the Metro system, it has functioned on a daily basis as one of the safest transit systems in the United States; is that not correct?

Ms. JETER. That is correct.

Mr. CONNOLLY. And, as a matter of fact, I think we've had a total of three major accidents in the history of the system; is that not correct?

Ms. JETER. That's correct. But I would also like to add, Mr. Connolly, that even though we have not had those types of accidents, as a rail operator I know that when an accident occurs, it occurs.

Mr. CONNOLLY. Absolutely. And one of the things that occurred, Ms. Jeter—and, Mr. Millar, you may want to comment as well—was because we were having what's called 1000-series cars, some of the very earliest cars in the system, in the front of the train that crashed into the stationary train; is that correct?

Ms. JETER. Yes.

Mr. CONNOLLY. And the 1000-series cars are, in terms of crashworthiness and safe haven for passengers, a lot less safe and reliable than more recently constructed cars; is that correct?

Ms. JETER. They are the weaker-built cars.

Mr. CONNOLLY. And is it also true, to your knowledge, that there is no Federal standard in terms of crashworthiness and safety of passengers on transit systems; there is for rail systems like Amtrak, but there is not for transit? And my time is up, but perhaps you would like to comment on that.

Ms. JETER. Not that I know of.

Mr. MILLAR. What there is is the federally endorsed voluntary standard system, crashworthiness, that I describe in my testimony that's been developed. Obviously, older cars were built under the practices of the time. As newer cars are built and purchased, they will be bought, presumably, to the standards of that time. And cars

that are bought 10 years from now will have to their standards; continuously moving and improving over time.

Mr. CONNOLLY. Mr. Chairman, my time is up, but this is an issue that has come out of the regional delegation's examination of the tragedy of June 22nd, this anomaly in Federal regulation where we do regulate for hard railcars on railroad systems, but not for transit. It's a voluntary system of safety. And this committee may want to take a fresh look at that.

I thank the Chair.

Mr. LYNCH. I thank the gentleman.

I would now like to recognize the gentlewoman from the District of Columbia Ms. Holmes Norton, who has been a driving force, along with Mr. Cummings and Mr. Connolly, on this issue. The gentlelady is recognized for 5 minutes.

Ms. NORTON. Thank you very much, Mr. Chairman.

Mr. Millar, your testimony is replete with standards. I mean, they're the kind of standards that I think the public thought were required.

First I want to know who has adopted these standards? And then I want to ask you why you believe the Federal Government has done no more than give you a charge to develop standards while apparently not giving anyone the charge to enforce standards?

Mr. MILLAR. Yes. The standards are developed under Federal law that allow for industry-developed standards. The development of our standards has been funded both by our own members as well as the Federal Transit Administration when it comes to rail transit and bus transit standards. When it comes to commuter rail standards, those have also been worked on by the Federal Railroad Administration as well. It is up to each transit property themselves to adopt standards as—

Ms. NORTON. So what is the usual practice? When you develop standards, have you found that transit systems across the United States readily develop these standards, and did WMATA do so?

Mr. MILLAR. Yes. We have found that once the standards are developed and agreed to—they're called "consensus standards" because there is agreement that this is the right standard—then we find transit systems do, in fact, use those standards because they want to improve safety, and the standards do that. As to whether WMATA—

Ms. NORTON. They are common carriers, and, of course, in our law you would expect them to improve and want to do so.

Let me ask Mr. Davis, who knows so much about the system and began us in this process, you heard the testimony here that we have a long list of standards. Do you believe the time has come, Mr. Davis, for the Federal Transit Administration or some agency of the Federal Government to, in fact, enforce some of these minimal standards for safety of passengers in transit systems throughout the United States?

Mr. DAVIS. Sure. But let me note one other thing. There is, to my knowledge, no identifiable grant source to buy railcars outside of the New Starts Program. So when you start talking about our ability to buy railcars and the like, it comes right out of Metro's hide. They can't go to the Federal Government for that.

Ms. NORTON. Are you implying that the Federal Government does not have the authority under the interstate commerce clause to require minimal standards?

Mr. DAVIS. No. I think they have the authority.

Ms. NORTON. Let me ask Ms. Jeter.

Ms. Jeter, you talk about people aging out. These are union jobs, which, as far as I know, are high-paid union jobs. May I offer again my condolences to you and to the excellent work force at WMATA, and congratulate you especially for what you did through the inauguration. You were way beyond the call of duty.

Ms. JETER. Thank you.

Ms. NORTON. But here you talk about operators aging out. The operator who sacrificed her life worked her way up the ladder. Is there some difficulty in attracting people to these high-paid union jobs?

Ms. JETER. I think there is to a certain point. Let me say this: WMATA, the union we have right now, the majority of the 7,900 or so employees, the majority of them have less than 10 years of service. So you have a relatively young work force, young in the amount of time that they have been on the property.

I think that where transportation is concerned, although it is a very well-paid position, it can be something that some of us don't enjoy doing. As a person who has been employed by WMATA for 30 years, there are many Christmases and Thanksgivings that I did not spend with my family. There were plenty of PTA meetings——

Ms. NORTON. But is there a work force ready and willing to step up as the work force ages out?

Ms. JETER. I think that there have been some changes that have been made. I know as soon as Mr. Catoe got on board, probably about 6 months after I became president and he became the general manager, we had a conversation about bringing people in full time versus part time so that they would be willing to step into regular positions.

I don't think that WMATA has any trouble recruiting. I think that transportation, because of its stringent rules and regulations, have trouble staying, to be honest.

Ms. NORTON. I see my time is up. I hope we have a second round, Mr. Chairman.

Mr. LYNCH. The Chair now recognizes the gentleman from Maryland, Mr. Cummings, for 5 minutes.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I want to thank all of you for your testimony.

Mr. Millar, when I was looking at the Washington Post this morning, they were talking about the NTSB and their letter that they apparently sent to you all within the last few days, and your immediate response, which I thought was good. And I'm just wondering, is the level of automation on the operation of the WMATA system unusual compared to other systems?

Mr. MILLAR. I would say yes. I would say that at the time that it was designed, only the BART system in California really had comparable, and WMATA really even went a step further. On the other hand, around the world, newer systems now have much more advanced systems. So at the time, absolutely; today, not so much.

Mr. CUMMINGS. And in your opinion, what are the particular risks that come with relying on such a high level of automation?

Mr. MILLAR. Well, you have to make sure of the proper design of the automation. You certainly have to make sure of the proper maintenance of the automation. You have to be very careful that when any changes are made—for example, if a new technology fix is intended to be brought in—that there aren't unintended consequences. You certainly have to make sure that the employees are well trained and familiar with both how to maintain and how to use the service. You also have to make sure that you don't expect it to deliver more than it can deliver. So you always have to use your technology appropriately. This is no different.

Mr. CUMMINGS. And how do you make sure that the things that you just said are done? The other day I went to get my brakes fixed, and when I got in my car, literally my foot went down to the metal, and the car wasn't stopping. I won't name the company, but the reason why I mention that is I think that when you have automation, it takes human beings to make sure that all of that stuff works. And I'm just trying to figure out how do you make sure that you've got everything. It seems like when you're depending upon a train to stop or to do certain things, and it could result, as here, in the loss of life and significant injuries, how do you make sure that you have layers of compliance and make sure that people do what they're supposed to do? And I'm not saying they don't.

Mr. MILLAR. A couple of ways I would answer your question. First, each transit agency in America is a public agency; it has its own procedures, it has its own adopted processes, it has its own responsibility to train its employees in those processes. More recently, over the last few years, APTA, in cooperation with FTA and others, has been developing standard operating procedures and maintenance procedures that can be used. You gave the example of brakes on your car. That's one of the very early areas that we develop standards in so that employees can have a standard to work against.

We also now have a certification program in our industry. I believe WMATA participates in that certification program so the men and women can know what the standards are, know what the procedures are, be trained in those, tested in those to make sure that they are well qualified to work. So those are usually the general ways that these things are handled.

Mr. CUMMINGS. And in response to two WMATA accidents in 2006, the NTSB determined that the lack of rule compliance testing and enforcement on the WMATA system contributed to both 2006 WMATA accidents. And how does WMATA's rule-compliance testing measure up to other systems?

Mr. MILLAR. We have worked with WMATA and other transit systems in this particular area. Recently, WMATA has been particularly placing emphasis on safety and compliance with safety. I believe when the WMATA folks testify later in this hearing, they could tell you much more about that than I'm capable of relating to you. If there is a followup question after that, I would be happy to supply it to you and for the record as the committee might desire.

Mr. CUMMINGS. Ms. Jeter, I heard the last few seconds of your answer to a question. One of the things that you said is that they need the resources. I think you were talking about funding; I caught that. How confident do you feel that if the money were there, that it would be used for the right things?

Ms. JETER. I feel relatively confident. I also think that, along with funding, you also have to have regulations, and you have to have those criteria in place when they're supposed to do it.

In your questioning, you were talking about the training that people would have to have in order to do all of this. Funding provides the money for the training, but I also think that we have to stop paying lip service and actually do it. If it's necessary to train the entire fleet of employees in a particular new technology, then all of them need to be trained, not just part of them today, and then 6 months later we get to the other part. By the time we get to the other part 6 months later, a number of things have occurred. So I think that's some of what we have to do.

As an employee I've watched where 25 people go to training for one particular thing, and then we don't see that training anymore, we move on to the next thing. We have to stop doing that. I think we, as transit, have to stop doing that to ensure that all employees are trained on all things that concern any part of transit.

Mr. CUMMINGS. I see my time is up. Thank you, Mr. Chairman.

Mr. LYNCH. I thank the gentleman.

The Chair is now pleased to recognize the gentleman from California, Mr. Bilbray, for 5 minutes.

Mr. BILBRAY. Thank you, Mr. Chairman.

I apologize to the committee because I like to get into the weeds; you know, once a transit operator, always a transit operator. I guess the question will be technical, but also from the union's point of view.

One of the things that was developed in the early 1970's and late 1960's was this concept that automation was the thing of the future. It wasn't until late in the 1970's that we started seeing that you still have to have somebody in the cab.

Now, my question is this: As I remember, in 1978 when we were building our LRT system in San Diego, we were told by BART, we were told by Edmonton, we were told quietly out of D.C. that the system of having automated operation with a manual override—which is basically what we have now—was not the way to go; that the fact is the opposite should be the way to go, have manual operation and an automated override. Now, there may be the issue of proximity of trains and everything else, but what we were told when we were talking to the people on the front line was that the fatigue of an operator was more when they were not operating the car itself, were sitting and basically just keeping an eye on the machine than to physically operate the system.

Has anybody done a system study on the reaction time of somebody who is not actually operating the vehicle as opposed to somebody who is physically doing the operation?

Mr. MILLAR. I'm not familiar if there is such a study. I can tell you the question you've posed is an unresolved question. There are transit systems built today in the world that are fully automatic, no manual override whatsoever. There are transit systems in the

world that have some automatic train-control features but much more heavily reliance on the operator.

Where there is clear agreement, is that having automatic train protection systems, such as was included earlier in testimony today about in the Rail Safety Act last fall. There is no disagreement about that. That needs to be done and is being done around the world.

But I am not familiar with such a study. I will check our records, and if I find such a study, I will be glad to make it available for you, sir.

Mr. BILBRAY. Ma'am, from the labor point of view.

Ms. JETER. I believe that running a system automatic is the right system to run in. The train just runs smoother as a whole. I think that having a human being there stops whatever from occurring whatever problems you might have with the system from occurring. And the operator can override and put it in manual. But I do believe, as an operator, that running that system on automatic, we are supposed to have an automatic system, it should be able to run and run sufficiently in automatic.

Mr. BILBRAY. But, see, that's the theory. And we had the bells and whistles; you basically had the engineers that like to engineer everything and try to engineer the human factor out. But we were strongly urged, after BART got into operation, not ignore the impact on the human of not doing anything. The mind ends up drifting off; there is a lack of concentration. So the reaction to an emergency is going to be much slower for somebody who's not actually engaged in the operation than somebody who is observing it and then is expected to impose on. I think that we've got to be open and frank.

I'll give you an example. When you fly a B-2 bomber, they're being flown by the person in the pilot seat, but the computer can override and stop you from doing the wrong things. We've got technology that's one of the most sophisticated systems that Americans ever developed operating off that mode, and we're operating on a 1970 mode that machines and computers can do it. And it was all actually an afterthought that we put people on board as a backup.

I'm not so sure that we shouldn't be taking the time to study this, and make sure the assumptions we made earlier in the 1970's are the best assumptions going into the next century. I think we need to legitimately say we assume that the driver will respond to the crisis in a timely manner as opposed to the other way around. And I think we should rethink that. I'll tell you personally, as somebody who was building a system back in the late 1970's, I still remember being told again and again by drivers to watch out for this system, it has this problem. And when the accident happened, Madam Chair, I thought back to those warnings I kept hearing.

Go ahead.

Ms. JETER. The other part of that is when you operate for 8 hours manually, you also run the risk of someone getting tired. So I think that it has a dual effect on individuals.

You know, as a seasoned operator, I say when you get tired and you feel yourself maybe not paying attention, stand up, do something other than just sit there and be lulled with the movement of the train. You have to condition yourself to know that being alert;

is your job, that's what you're supposed to do. When you're not operating that train in manual, you're supposed to be alert, you're supposed to know what that train is doing at all times.

Mr. BILBRAY. Madam Chair, I appreciate the time. I think it may be time to go back and study the human impact on this. We always are looking at the machines, but I think we've got to integrate the human factor. Assumptions made 20, 30 years ago may not be reality today, and I think that we ought to ultimately and frankly discuss that.

Ms. NORTON [presiding]. Thank you, Mr. Bilbray.

Mr. Tuite, the chairman promised that on the second round of questions, we would let you begin, because we have not yet heard from an eyewitness who was involved in this accident. You have 5 minutes to summarize your testimony, please.

Mr. TUIITE. Thank you, Chairwoman.

Ms. NORTON. Could I just say that I have received word, Mr. Davis, that you may have to leave. I want to thank you for the chairman and the committee for taking the time to follow through on what you began here when you were Chair of the full committee. So if you have to leave, you will be excused with thanks and gratitude.

Mr. Tuite.

STATEMENT OF PATRICK TUIITE, EYE WITNESS AND METRORAIL TRAIN 112 RIDER

Mr. TUIITE. I want to apologize first for my delay. I knew that I had to be here at 2 o'clock. I live in Kensington, MD. I decided for the first time since the accident to take the Red Line. I left my home at 12:37. I did not arrive here at Capitol South until 2:55.

Ms. NORTON. The Red Line is being held up because of the accident, I take it.

Mr. TUIITE. Yes. And the elevators weren't operating at Forest Glen, and there were a number of other problems that caused that delay. So I apologize, but please appreciate my frustration in even giving you that apology.

On the afternoon of June 22nd, I was on my way to teach a night class at the Catholic University of America. I decided that night, on a whim to save some gas, to park at the Wheaton Metro, and take the Red Line down.

I normally ride in the first car of the train, but on that evening it was hot, I was dressed for work, I decided to stay in front of an air conditioner on the platform at the Wheaton station, and because of that got on the second car of the train and sat on the forward-most right-hand side facing forward near the forward-most doors, if that helps at all.

While riding the train, I read the paper, as I do in the tunnel. And then, as we came out of the tunnel, approaching the Silver Spring station, somewhere around Silver Spring or Takoma, I got a little tired and put down the paper. The operator came on and told us to expect a delay. This was a typical announcement, this was nothing unusual. I could hear the operator's voice. She reassured us that we would take a delay, stop in between stations, and then start back up again.

So as the train came to a stop somewhere south of Silver Spring or south of Takoma, I don't remember which, I closed my eyes and relaxed a little bit. The train began to move again while my eyes were closed. I had put the paper down. And then somewhere in there we got to a normal cruising speed, I'll call it, when I heard a screeching noise. A shuddering feeling came through the car; someone yelled behind me that she believed that we had derailed, and then one of the loudest bangs I've ever heard in my life.

Everyone in the second car—and there weren't many of us—were thrown from their seats. I hit the seat in front of me. I don't remember much of that, but I do remember being on the floor of the second car with a lot of dust, a lot of smoke, not much in the way of screaming, but all my belongings had been thrown to the front of that car.

It's at that point—first of all, there was no noise. All the electricity was down. You could see the sunlight coming through, but it was very difficult to make out what was going on. A gentleman who had been sitting forward of me got to his feet and told everyone in the car we should go, everyone get out of the car.

So people did get up. We moved in an orderly fashion; again, no screaming. A woman opened the emergency lever to get the center doors open. The center doors did not open. I helped by reaching in and sliding one of the doors open to the left, and we proceeded to get people out of that car and onto the rocks below. It was quite a big jump. I mean, it's a good 4½ feet, 4 feet up to the rocks at that point. So we helped lower people out of the car. And it's only at that point when I paused, looked to my left out of the door, and realized that the car of the train was actually in the air.

I could see debris on the ground, things thrown from the first car into the fencing. There was at least one man that I saw on the ground, khaki shorts, moving, but he did not look good; he was bleeding profusely from his legs. People were already moving toward him so that the people in my car decided to just exit as quickly as we could, as safely as we could, and then move to the back of the car—or all the way to the back of the train.

We helped people off the train. When everyone was out of our car, I noticed two gentlemen had gotten into the second car and were moving to the doors in the interior of the car. I got back onto the train to assist those two gentlemen. They were attempting to open the interior door that connects the second car to the first car. That door was stuck. I learned later that the car I was in was also a 1000-series car, and what had happened was the roof of the car actually dimpled like a soda can. If you take your Sprite can or something, turn it sideways, imagine it's like the car and just press on the top, that's what happened to that second car. Because the roof was down, the struts that support that roof were also down. That prevented the door in the second car from opening enough for anyone in the first car to exit.

There were two gentlemen with me. We could see, as we were trying to remove that door, that possibly we could take some ceiling panels down. We did that. That didn't work because the metal struts underneath that ceiling panel were stronger, we couldn't rip those out. So the door was stuck.

We could hear the people at this point in the first car, and it didn't—it was pretty chaotic. They were screaming, they were upset. I could see through the window there were about four to five people in the rear-most section of the first car. I could not see beyond that, which would be the rear-most door as the side doors that open; you couldn't see past that because the flooring had crushed accordion like into that section, so all the handrails, all the seating was askew. We had handrails and posts pointing toward us, almost like tooth picks, and then four to five people trapped inside there.

When this one young man on the other side realized that we could not open our door, he told us that he was going to break the glass. So he took his shirt off, wrapped it around his wrist, and started punching the glass. It was at that point that myself and the two other gentlemen moved out of the way to avoid the broken glass.

At this time—and this is the first time that a first responder came to us—a WMATA operator, I don't know where from, but obviously not on our train, had come in through the third car into the second car. He had the vest, the walkie-talkie, goatee, and told us that we should just exit that car as quickly as possible, that he would take care of that situation as best he could, and that first responders were on their way.

So we moved through the cars themselves. They were empty at that point. The second and third car were empty. We moved into, I believe, the fourth car, jumped from the car, and then just got more people out of the cars as best we could, helped lower them. Again, I did not see a lot of first responders at this point because I had not been to the back of the train itself.

I don't know what the time was, I don't know how long this narrative would account for, but when we got out of the train and were moving people out, someone shouted that they needed doctors and nurses. And that was quite vivid for me because I was lowering a woman in scrubs from maybe the fourth or fifth car, and she said, I'm a nurse, but I'm hurt. We said, we need you, and she went to the first car.

After that, we pretty much moved everyone to the back of the train. It was very confusing. We saw two, I believe, plain-clothes policemen in shorts with safety vests. I don't know who they represented, but they told us to stay away from the third rail, stay grouped at the back of the train.

We had people wandering away from the scene. We had four passengers, at the very least, that I witnessed who picked up their belongings at the end of the train and simply walked north. They left. And there were not enough first responders to prevent them from leaving, and certainly none of us had our wits about us to say, don't go. We just let them go.

The firemen who arrived on scene went to the parking lot between the Community Gardens north of New Hampshire Avenue bridge and the Jabroe—I think it's Jabroe Printing that has a parking lot there. They could not get to us because we had fencing between the CSX tracks and the Metro tracks. There are four sets of tracks at that point by the New Hampshire Street bridge. The

Metro tracks are in the middle. There is fencing there to this day, with barbed wire on the top.

The firemen can't get to you. The firemen's equipment, their trucks and whatnot, could not get on the tracks. So they had to lug their gear, things like jaws of life, diamond-cutting saws, and other equipment, on stretchers, manually carrying that equipment toward the first car. This is when we started to see people at the back of the train. So we just waited. We waited and took care of one another as best we could.

Mr. LYNCH [presiding]. I thank the gentleman.

[The prepared statement of Mr. Tuite follows:]

**Dr. Patrick Tuite, Drama Department
The Catholic University of America
“Back on Track: WMATA Redline Metrorail Accident,” hearing on July 14, 2009.**

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**Chairman Stephen F. Lynch
July 14, 2009**

The following is my account of the events that occurred on the afternoon and evening of June 22, 2009. I was a passenger on the Redline train that struck another train waiting just above the Fort Totten Station.

I drove from Kensington, MD to the Metro garage in Wheaton, MD and parked on the third floor. I walked to the station and checked my Smartrip card to see if I could add to its total. In the station, I heard that there were delays on the Redline as the trains had to single track between Friendship and the next station along the Shady Grove side of the line.

I waited at the platform at the Wheaton station for a Shady Grove train to arrive. I normally enter the first and most forward car of a train, but a good air conditioner at the platform kept me from moving further forward. A six-car train arrived and I entered the second car and sat on the right side, facing forward, and one seat behind the forward-most doors of the car.

I read the paper until we approached the Silver Spring station. After Silver Spring, I put down the paper. Sometime after the Silver Spring or Takoma Station, the conductor announced that we would be delayed. There was a train at the next station, and we slowed to a stop. I took the time to close my eyes and relax. I was on my way to my night class in the Drama Department at The Catholic University of America, and I was tired.

The train stopped briefly, started again, and reached what felt like a normal speed. Then the train abruptly shuddered and slowed down. I heard a screeching sound, and a woman seated somewhere behind me screamed that we had derailed. There was a loud bang and the train jolted to a stop. I was thrown from my seat along with my belongings. The car felt as if it had tilted. Dust and smoke filled the air, combining with the sunlight to make a strange orange color. There was no movement or noise.

A man who had sat in the forward most left seat jumped up and shouted, “Let’s go! Let’s get out of here!” The people in my car did not scream. Some cried, but we made our way to the center doors, and a woman used the emergency handle to try and open the door. It only opened a few inches, and I grabbed one side and forced it open. David Holland, the

man from the forward seat, and I helped people to exit the car. We thought the car was on fire. It was not, and I gathered my belongings and quickly left the second car.

I thought at first that we had derailed, but when I looked outside of the second car to examine the first, I realized that it had been destroyed after it hit another train. I saw debris and at least one person thrown from the first car to the ground. People were already moving to help that person. He had on khaki shorts and was bleeding badly from his leg. I told the other passengers to not look forward and move to the back of the train.

I helped the last people out of the second car and then climbed back into it. Two men had moved from the third car into the second car and were attempting to open the door between the second and first car. I joined them and tried to force the interior door open. It was stuck. We tried to release it by pulling the ceiling fixtures from above the door. The ceiling panel came down, but it revealed that the second car had also buckled under the impact, and a metal strut prevented the door from opening. The entire roof of the car had been pushed down by 8 to 10 inches. The door would not budge.

We could now see into the first car. The entire flooring had been pushed back and up like an accordion. The chairs and handrails were twisted and poking out in all directions. I could only see 4 to 5 passengers. They were screaming and crying. They could not exit via the side doors. The doors were closed, and the outer shell of the train had separated from the flooring and was pointing up. The virtual wall of flooring prevented the passengers in the rear of the car from reaching the doors.

One young man in the first car could communicate with us. He tried to force the interior door of the second open. When this failed he said that he was going to break the glass between the cars. He took off his shirt, wrapped it around his hand, and started to hit the glass. I and the two men with me moved back to avoid the broken glass, but the window did not break at first.

At this time, a Metro employee wearing a safety vest and carrying a walkie-talkie entered the second car from the third car. He told me and the other two men to leave the train quickly. We left through the third car. The Metro employee was the first official that I saw on the scene.

I jumped from the train at the third or fourth car. These cars were empty, but once I moved toward the rear of the train I helped people get out of the cars who could not jump. It was a pretty big jump from the door to the ground, and we were against a metal fence. At this point, someone asked for nurses or doctors to help with the people ejected from and trapped inside the first car. I remember this distinctly because I helped lower a woman from the train in scrubs. She had been hurt in the initial impact, but she said she was a nurse and went towards the first car anyway. There were still people in the last car, and they could not move one person to the side door because of their injuries.

Two plain clothes police and some firemen had now arrived at the back end of the train. They looked as confused as we were. No one knew if the third rail was disabled, and the passengers stood on the tracks in the sun. A group of at least four passengers grabbed their belongings and started to walk back towards the Takoma station before any first-responders knew that these passengers had left. I heard later over an ambulance radio that one of these passengers had been found dazed at a nearby Starbucks.

The firemen had parked next to a community garden and warehouse just north of the accident. They could not get to the group of passengers at the rear of the train because of the fencing that separates the Metro tracks from the CSX tracks. The firemen were also busy trying to get their equipment to the first car. They had to carry their Jaws of Life and circular saws on stretchers to the wreckage. No trucks or other vehicles could get the accident below the bridge.

Some of the people who had survived the crash in the first car made their way to the back of the train. They were covered in soot and blood and looked confused. The firemen used a wand to check the third rail and eventually cut through the fence.

We exited the tracks through the fence and entered the parking lot next to the community garden and warehouse for Jabroe Printers. The firemen and EMT had set up a triage in the parking lot using chairs from the printers. The firemen seemed confused by the size and scope of the situation. They had setup chairs for the tougher, but not life-threatening cases directly in the sun when there was shade just around the corner of the building. One fireman also announced that if we had given our names and numbers to a Metro official and we were not in need of medical assistance we could leave. We could call someone and be picked up in the neighborhood. Some people from the train left.

Another group of walking passengers left on a bus. They were not told where they were going when they asked. I remained in the parking lot. I was the last passenger not on a stretcher to leave. I wanted to help some of the people who could not move or get water. When these passengers were put into ambulances I asked a fireman with a clipboard and white top how I was going to get to a hospital. He told me that I could walk, and he was taking names for those who needed an ambulance. I asked if I could take another bus. He did not know and was not willing to put me in an ambulance. Finally, someone else agreed that I could ride along with another passenger in an ambulance. We did not know where we were going until we were on the road.

I arrived at Holy Cross Hospital later that evening. I was examined by a PA. My wife works as a nurse at Holy Cross. She picked me up from the emergency room by 10:00 pm, and we went to get our other car at the Metro garage in Wheaton. I had canceled my night class by calling campus security using my cell phone while standing on the tracks.

To this date, no representative of Metro or the NTSB has contacted me. Why has Metro not attempted to speak with me over the last two weeks? I have received several bills

from Holy Cross Hospital, and I have not yet inquired how Metro will reimburse me for those bills or the trauma that my family and I have experienced.

One final comment: on June 22, 2009, the conductor of my train announced to the passengers that we had to wait in between stations because another train had not left Fort Totten. I also believe that she had used the emergency brake before we hit the other train in between Takoma and Fort Totten. I distinctly remember the car shuddering and hearing a grinding noise before the crash. This evidence suggests that she was alert and was not aware of the presence of another train waiting on the tracks near the New Hampshire Street Bridge. She should not be held responsible for the errors and oversight that led to this tragedy.

Patrick B. Tuite

Mr. LYNCH. At this time I would like to recognize the gentlelady from the District of Columbia, Ms. Holmes Norton, for 5 minutes.

Ms. NORTON. I need to get on to Mr. Millar and Ms. Jeter, but I must ask you, were you injured, Mr. Tuite?

Mr. TUITE. No, but I did have some soreness in my neck and back. I eventually was triaged, along with the other people in the parking lot. I just stayed. And toward the end of the evening, some of the first responders told people, look, if we've got your name and number, and we've looked after you, you're free to go, which I thought was a surprise.

Ms. NORTON. Your testimony has been really indispensable to this hearing. It's riveting testimony. I'm sure it's been helpful to the NTSB as well.

Because I have only a short period of time. Mr. Millar, would you have advised WMATA to do what it now has done, to place the 1000-series cars in the middle and the more crashworthy cars at either end, yes or no?

Mr. MILLAR. Yes. That seems like a prudent thing to do.

Ms. NORTON. Do you understand why they would not have done it before?

Mr. MILLAR. I don't know what information they might have possessed then.

Ms. NORTON. Let me ask you this: Therefore, faced with choices that you can pull 30 percent of your fleet that goes back almost 40 years or put them in the middle, the choice should have been to put them in the middle so that either end would have the most crashworthy cars. Have you ever recommended anything of that kind?

Mr. MILLAR. That is not a type of detailed recommendation we would normally participate in.

I would caution that what looks like a very good idea, given the circumstances that we think we understand now, could, in a different set of circumstances, look like a very bad idea.

Ms. NORTON. And we will question the next panel on that.

Ms. Jeter, it's important to hear your testimony about automatic versus manual. You know that some members of the public have been concerned about reports of a Metro operator who seemed to be sleeping. I tell you one thing, it's easy to go to sleep on any kind of moving vehicle, especially a train. There was concern, and we are so pleased to learn that the operator didn't even have her cell phone with her, so we know that she was paying close attention.

I understand what automatic does, but I really have to ask you, what is there, and shouldn't there be something, that the operator has to do fairly often during the trip to keep her alert in light of human instinct to get bored if you're just sitting there doing the same thing over and over again? Isn't there something more that should be done, either you or Mr. Millar, to keep people alert?

Ms. JETER. Well, actually we do. The operators are responsible for opening and closing the doors at this point. We are also responsible for giving out announcements. It's our job to listen to the radios and monitor the radios so that we know what is going on in the railroad ahead of us.

Ms. NORTON. So you really think there is enough to keep people alert already.

Ms. JETER. I do.

Ms. NORTON. And I see you shaking your head, Mr. Millar.

Mr. Millar, in your testimony, I note that you say this fundamental system, that WMATA had adopted, also provides safe and effective service in other major cities. You name Boston, Atlanta, Baltimore, Miami, Philadelphia and San Francisco. Do you believe that the system here is as safe as those systems you had enumerated in your testimony?

Mr. MILLAR. It's at least as safe. I have full confidence in the Metro system here.

Ms. NORTON. In reading your testimony, Ms. Jeter, I sometimes, because I don't understand enough about trains, had to try to distinguish between what WMATA could have done and what was too costly to do. You were generous in saying WMATA didn't have a lot of money to do what really needed to be done.

You recommended retrofitting some of the cars. Given the age of this car and the kind of funds it would take to retrofit—and I suppose I should ask this question to Mr. Millar—40-year-old cars, and make them crashworthy, was that a real option for WMATA? Mr. Millar, yes or no, do you think that was a real option?

Mr. MILLAR. I don't know the facts specifically here, but I agree with the fundamentals of your point that if you're going to be retiring a car soon, you want to do only what is absolutely necessary to keep safety and operational efficiency.

Ms. NORTON. I will have to ask whether it was worth the investment.

Let me ask about your testimony, Ms. Jeter, about car-borne monitors. You say that NTSB recommended car-borne monitors in every WMATA car to give advance performance data. Now, would that have been costly? And do you believe that WMATA installed what it could that was not excessively costly, or that contraptions like these car-borne monitors could have and should have been installed in any case?

Ms. JETER. I think over the years WMATA probably purchased new cars hoping to alleviate the problems that had been identified. It would be harsh for me to say that they purposefully did not follow—

Ms. NORTON. No, but that's not my question. You talk about roll-back, and there are some things that they didn't install.

Ms. JETER. Correct.

Ms. NORTON. Do you think that WMATA, given the circumstances it faced with Congress not providing the money and the system not having anything like the funds, did what it could to prevent this accident, assuming that it didn't have the money for all new cars or maybe even retrofitting cars?

Ms. JETER. Where this accident is concerned, to be perfectly honest, I think there was part of the situation that was missed, either through supervision, whether or not it was monitoring that should have taken place after some of the circuitry was changed on the rails. I think that's a place where we probably need to go back and look at what the procedures are so that we would have the procedures in place.

It's my understanding that once that Wee-Z bond was changed, or once there was a problem identified with that Wee-Z bond, there

should have been certain things done to assure that it was operating as it should have been. And apparently it wasn't, because it's my understanding that train 112 wasn't even seen. So if the train wasn't seen, why? Was that a bond that prohibited that train from being able to be monitored by either central control or some other manual?

Ms. NORTON. Thank you, Ms. Jeter.

Mr. LYNCH. Thank you.

Now I would like to recognize the gentleman from Maryland, Mr. Van Hollen, who has been an active and attentive Member on this issue, a member of our full committee. I recognize the gentleman for 5 minutes.

Mr. VAN HOLLEN. I thank you, Mr. Chairman. Thank you for bringing this together on this very important issue, and I won't use the whole 5 minutes.

I do want to thank our former colleague Mr. Davis, who had to leave, again for his longtime leadership on the question of WMATA. All of us from this region are very pleased that we were able to get the \$150 million appropriation from the Appropriations Committee subcommittee. And obviously that's the first step in providing the Federal component of the ongoing funding.

To Mr. Tuite, it's great to have a fellow resident of the town of Kensington with us. And thank you for sharing your story.

I thank all of our witnesses.

In fact, my colleague Ms. Norton asked some of the questions I was going to ask of the other two of you. So in the interest of time, Mr. Chairman, I will move to the next one. I want to thank you.

Mr. LYNCH. I thank the gentleman.

We want to thank each of you for your testimony here today. As always, there are a number of other hearings going on at the same time. Also, as you know, we've had votes on the floor. I will ask that you remain responsive. If Members who were not here at the hearing today have any questions that they would submit in writing, I would forward them to you and would ask that you respond to them within 5 days.

With that, I want to thank you for your testimony today, and I bid you a good day. Thank you.

The Chair would like to call forward our second panel.

Good afternoon. I would like to welcome our second panel and thank you in advance for your testimony.

It is the custom of this committee to ask witnesses to be sworn who are to provide testimony before it. So could I ask you all to rise and raise your right hands.

[Witnesses sworn.]

Mr. LYNCH. Let the record show that all of the witnesses have answered in the affirmative.

In the interest of time, what I would like to do is just to offer a brief introduction of each of the witnesses, and then we will go back and allow the witnesses to provide an opening statement.

Council Member Jim Graham became chairman of the Metro Board in January 1999. Mr. Graham currently serves on the Council of the District of Columbia representing Ward 1. He also chairs the council's committee on public works and transportation. Mr. Graham served as executive director of the Whitman Walker Clinic

from 1984 to 1998. Previously Mr. Graham served as staff counsel for Senator Abe Ribicoff, a Democrat from Connecticut, and clerked for Chief Justice Earl Warren, now retired.

Mr. John B. Catoe has more than 30 years of experience in public transportation. As general manager of the Washington Metropolitan Area Transit Authority, he oversees the second largest rail transit system and the fifth largest bus network in the United States, with more than 10,000 employees, a \$1.3 billion operating budget, and a \$3.1 billion 5-year capital improvements program.

Ms. Deborah A.P. Hersman was sworn in as the 35th member of the National Transportation Safety Board on June 21, 2004. Since her appointment to the Board, Ms. Hersman has been the member on scene at 15 major transportation accidents. Before joining the NTSB, Ms. Hersman was a senior professional staff member of the U.S. Senate Committee on Commerce, Science and Transportation from 1999 to 2004.

Mr. Eric Madison joined the Mass Transit Administration as transportation planner in 2007. Mr. Madison was appointed as a district representative to the Tri-State Oversight Committee for State safety oversight of the Washington Metropolitan Area Transit Authority Metrorail system, and in April 2007 became Chair of the committee. Mr. Madison began his career with the District Department of Transportation in 2003 as an administrative management officer for the Public Space Management Administration.

Mr. Peter M. Rogoff was confirmed by the U.S. Senate as Administrator of the Federal Transit Administration in May 2009. Prior to joining the Federal Transit Authority, Mr. Rogoff served on the staff of the Senate Appropriations Committee for 22 years, including 14 years as the Democratic staff director of the Transportation Subcommittee. Mr. Rogoff has a strong background in Federal infrastructure, budgeting and finance, and has played an active role in the financing of the last three comprehensive surface transportation reauthorization bills.

I would now like to recognize Mr. Graham for 5 minutes for an opening statement.

STATEMENTS OF COUNCILMEMBER JIM GRAHAM, CHAIRMAN, BOARD OF DIRECTORS, WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY; JOHN B. CATOE, GENERAL MANAGER, WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY; DEBORAH A.P. HERSMAN, MEMBER, NATIONAL TRANSPORTATION SAFETY BOARD; PETER M. ROGOFF, ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION; AND ERIC MADISON, CHAIRMAN, TRI-STATE OVERSIGHT COMMITTEE

STATEMENT OF JIM GRAHAM

Mr. GRAHAM. Thank you very much, Mr. Chairman and Ranking Member Chaffetz, Delegate Norton, Congressman Connolly and Congressman Van Hollen. I am here today in my capacity as chairman of the Metro/WMATA board.

June 22, 2009, was and will always be a date of great tragedy for our agency and for all who rely on it. Those most directly impacted remain in our hearts and prayers and motivate our every

action. I want to especially thank Mr. Tuite for coming here today to share his personal experience, which I found very impactful.

As a first step, our board did act within 24 hours to authorize the general manager to provide emergency hardship relief funds to those who were victims of this tragedy. That relief was not contingent on anything, and it was made clear that it had no ramifications of a legal nature insofar as ultimate liability. It was, rather, a humanitarian gesture to relieve immediate hardship. And I know firsthand from working with certain of these families that it was really very much appreciated.

On behalf of our board of directors, I want to say that we believe in our management, and we have confidence in the skill and dedication of our general manager John Catoe. We believe our system is safe, and we will do all we can to ensure that once the probable cause or causes of the accident are identified, action will be taken by the authority to remedy and address those problems.

Please keep in mind that in all of our history, there has been but one other fatality involving passengers, and that was more than 25 years ago. But for pressing infrastructure needs, we need real action by the Congress to make good on the promise in last year's authorization act and thereby provide a full payment of \$150 million in fiscal year 2010 Federal appropriations.

Presently, our local jurisdictions carry nearly the entire burden. For example, D.C. taxpayers will send some \$300 million to Metro/WMATA in fiscal year 2010. We are very encouraged, Mr. Chairman, by the action that was taken yesterday by the House Appropriations Subcommittee on Transportation to take that first and extraordinarily important step in appropriating \$150 million for fiscal year 2010.

I want to commend everyone that was involved in this, most particularly our regional delegation. Some of the Members are here today: Delegate Norton, Congressman Connolly, Congressman Van Hollen, and others. And I also want to single out our Majority Leader Mr. Hoyer for his fine role in all of this.

I believe that if Congress acts to finalize the \$150 million for fiscal year 2010, that D.C., Maryland, and the Commonwealth of Virginia will all find the matching funds to bring together \$300 million annually for each of the next 10 years. This money will make a critical difference in our abilities.

Mr. Chairman, I remember our last hearing where you were so diligent in terms of making sure that we had put everything out of the path in terms of obstacles in order to make sure that this money would become available. But, Mr. Chairman, we also need to have the active commitment of President Barack Obama and his administration to find emergency stimulus dollars for immediate assistance with these infrastructure issues. I noted that Congressman Davis made a particular point of this in his comments today.

Finally, we appreciate the support of our local congressional delegation, as I have said, and it's continued to work to move all of this forward. Thank you.

Mr. LYNCH. I thank the gentleman.

[The prepared statement of Mr. Graham follows:]

HEARING ON
THE JUNE 22, 2009 RED LINE METRORAIL ACCIDENT
"BACK ON TRACK: WMATA RED LINE METRORAIL ACCIDENT"

Testimony of
Jim Graham, Chairman
WMATA

Before the
Subcommittee on Federal Workforce,
Postal Service and the District of Columbia of the
Committee on Oversight and Government Reform
U.S. House of Representatives

July 14, 2009, 2:00 p.m.
Room 2154
Rayburn House Office Building

Good afternoon Chairman Lynch, Ranking Member Chaffetz, Delegate Norton and members of the Subcommittee. My name is Jim Graham and I am here today in my capacity as the chairman of the Board of Directors of the Washington Metropolitan Area Transit Authority, commonly known as Metro or WMATA.

Thank you for this opportunity to testify today on behalf of the Metro WMATA Board of Directors.

June 22, 2009 was and will always be a date of great tragedy for our agency and all who rely on it. Those most directly impacted remain in our hearts and prayers and motivate our every action.

As a first step, our Board did act within 24 hours to authorize the General Manager to provide emergency hardship relief funds to those who were victims of the tragedy. That relief was not contingent on anything, and it was made clear that it had no legal ramifications insofar as ultimate liability. It was rather a humanitarian gesture to relieve immediate hardship.

We believe in our management and we have confidence in the skill and dedication of our General Manager, John Catoe.

We believe our system is safe, and we will do all we can to insure that---once the probable cause or causes of the accident are identified---action will be taken to remedy those problems. Please keep in mind that in all our history, there

has been but one other fatality involving passengers, and that was more than 25 years ago.

But for pressing infrastructure needs, we need real action by Congress to make good on the promise in last's Authorization Act and thereby provide a full payment of \$150 million in FY10 Federal appropriations. Our local jurisdictions today carry nearly the entire burden—DC taxpayers, for example, will send some \$300 million to Metro/WMATA in FY10.

If Congress acts, I am sure that DC and Maryland and Virginia will find the matching funds to provide \$300 million annually for the next 10 years. This money will make a critical difference in our abilities.

But also, we must have the active commitment of President Barack Obama and his administration to find emergency stimulus dollars for immediate assistance with these infrastructure issues.

We appreciate the support of our local Congressional delegation, in its continued work to move all of this forward.

Thank you.

Mr. LYNCH. Mr. Catoe, you are now recognized for 5 minutes.

STATEMENT OF JOHN B. CATOE

Mr. CATOE. Thank you, Mr. Chairman and also Ranking Member Chaffetz. I'm happy to be here today to testify in front of you in the position of general manager of the Washington Metropolitan Area Transit Authority [WMATA], or Metro.

The basic facts of what happened on June 22nd are really described in my written testimony, as well as the testimony from the National Transportation Safety Board. And through this questioning this afternoon, I'm sure we will cover every aspect of that.

I do want to say that we were working with the National Transportation Safety Board to provide support in their investigation, and they have the lead responsibility for the investigation of this accident.

Today, I will focus on the steps that Metro has taken since the accident to ensure the safety of our riders and employees, and also touch on the capital needs of this organization.

First, I would like to extend my sympathy and those of all Metro employees to the families of those who died in this accident. I, as well as all Metro employees, are saddened by this event, but my grief is only small compared to the grief of the families of those who lost their lives.

Our thoughts are also with those who are injured, and we pray for their speedy recovery. This is a difficult time for them and their loved ones, and we would do whatever we can to help them come through this process.

I would also like to take a moment to acknowledge and thank the first responders from the District of Columbia as well as from other local fire departments, police departments, as well as members of the Metro Transit Police and our employees, who responded to this accident and provided assistance in a very quick, in my judgment, time period. My written testimony also includes the list of those who provided assistance, for which I am truly, deeply grateful.

Safety is at the foundation of what we do at Metro. We have always taken our responsibility to safety seriously, and we have always taken a number of steps to ensure that this system is as safe as possible.

First, upon notice of this accident, we began to operate all of our trains in manual mode, rather than automated mode, to ensure, again, the integrity of the system.

Second, within days of discovering that a track circuit in the area of the accident had lost its ability from time to time to detect trains, we physically inspected each of the 3,000 track circuits in our rail system. And we are also running daily computerized tests on those circuits.

Third, we have arranged for an independent review of our automated transit train control system. In working with the National Transportation Safety Board, this review will be conducted by a group of outside transit signal experts. And I appreciate the assistance provided by the American Public Transportation Association for assistance in this effort.

Finally, while they are safe to operate, I decided to place our oldest railcars in the center of trains. We plan to replace those cars as soon as funding is available and funding is secured.

As you may be aware, yesterday the National Transportation Safety Board recommended that Metro enhance redundancy in our train control system by using real-time data and automatic alert. We have already begun contacting vendors with experts or expertise in this area. And we are preparing an estimate of the cost to develop and implement the automated system.

When we are able to determine the steps necessary, we will move forward with this system. We will do what we have to to ensure that this system is put into place. However, it requires a specialized development for the WMATA system, but we would dedicate the necessary resources to implement this recommendation as soon as that system is ready.

This meeting and this process will not begin next week; it has already begun. And, in fact, a meeting is scheduled tomorrow morning with the vendors within WMATA to begin the process of moving forward to meet the recommendations by the National Transportation Safety Board.

We also recognize and I realize that this is an inconvenience to many of our customers, of operating our system the way we are doing so today. We have not been able to return to pre-accident levels of service, and we will not be able to do so until this investigation is completed.

Finally, I would like to thank the Subcommittee on Appropriations for including the \$150 million in funding for Metro's capital needs. Our capital needs over the next 10 years total \$11.4 billion. And what I am asking that this committee and the Congress do is to pass the compact amendments necessary to make the changes in our compact and to also appropriate the \$150 million and pass it through the House so we can receive those funds for needed capital improvements.

Thank you.

[The prepared statement of Mr. Catoe follows:]



**HEARING ON
THE JUNE 22ND RED LINE METRORAIL ACCIDENT
“BACK ON TRACK: WMATA RED LINE METRORAIL
ACCIDENT”**

**Testimony of
John B. Catoe, Jr.
General Manager, WMATA**

**Before the
Subcommittee on Federal Workforce,
Postal Service and the District of Columbia of the
Committee on Oversight and Government Reform**

**July 14, 2009, 2:00 p.m.
Room 2154
Rayburn House Office Building**

Testimony of John B. Catoe, Jr., General Manager
Washington Metropolitan Area Transit Authority
before the Subcommittee on Federal Workforce, Postal Service,
and the District of Columbia
of the House Committee on Oversight and Government Reform
July 14, 2009

Mr. Chairman, Ranking Member Chaffetz, and members of the Subcommittee, thank you for the opportunity to testify before you today. I am John B. Catoe, Jr., General Manager of the Washington Metropolitan Area Transit Authority, known as WMATA, or Metro. My testimony today will provide an overview of the basic facts related to the tragic Metrorail accident that took place on June 22, 2009, and inform the Subcommittee about the steps that Metro has taken since the accident to ensure the safety of riders and employees.

At the outset, let me extend my sympathies, and those of all Metro employees, to the families of those who died in the accident. I am saddened by their deaths, but I know my grief cannot compare to that of their families and friends. Our thoughts also go to those who were injured. This is an incredibly difficult time for them and their loved ones, and all of us at Metro hope for their speedy recovery.

Let me also take a moment to acknowledge the tremendous efforts of the first responders and everyone else who worked to save lives and to offer comfort to those affected by this accident. Our first responders from the Metro Transit Police Department, along with our rail operations and safety staff worked with teams from a large number of local fire departments and emergency rescue squads, and emergency

aid providers throughout the night on the 22nd and into the following days and weeks.

I am grateful for the assistance of the first responders that day and for the many people who offered assistance in numerous ways. At the risk of inadvertently omitting any particular group, I wish to acknowledge the first responders as well as other entities that offered technical and other support: American Public Transportation Association; Bay Area Rapid Transit; Blue Cross and Blue Shield; Chicago Transit Authority; Cigna; COPE EAP; CSX police; District of Columbia Fire Department; Federal Bureau of Investigation; Federal Transit Administration, Hilton Hotels; JW Marriott Hotel; Kaiser Permanente; London Underground; Los Angeles Metrolink; Los Angeles County Metropolitan Transportation Authority; Massachusetts Bay Transportation Authority; Metropolitan Atlanta Rapid Transit Authority; Metropolitan Police Department; National Capital Chapter of the American Red Cross; National Transportation Safety Board; New York City Transit; Salvation Army; Southeastern Pennsylvania Transportation Authority; Salvation Army; Transportation Security Administration.

While Metro is a transportation provider, safety is at the foundation of everything we do. We have always taken our responsibility for safety seriously, and we will not rest until we know the cause of last month's accident and have addressed it.

Events of June 22

Let me give you the basic facts about the events of June 22, 2009. At 4:58 p.m., a six-car Red Line Metrorail train collided with another six-car Red Line train that was stopped on the track ahead. Both trains were headed in the direction of Shady Grove. The stopped train was on the track north of the Fort Totten Metrorail station, waiting for another train to clear the platform so that it could enter the station. The first car of the striking train came to rest on top of the trailing car of the stopped train.

Local fire and rescue units were quickly on the scene, along with Metro safety and rail officials and other senior personnel, Metro Transit Police, and officials from the National Transportation Safety Board. Tragically, nine people lost their lives, including the operator of the striking train, and more than 70 were injured.

Because this accident occurred at the height of rush hour on our busiest rail line, we did our best to continue service on two separate segments of the Red Line on either side of the accident site. Red Line service was severely delayed, and as quickly as possible we established free shuttle bus services to help Red Line customers get around the incident. Through the use of email alerts, announcements, and notices on our website, our customer call center, and postings on social media resources such as Twitter, Metro advised riders to utilize the Green Line or Metrobus services and to avoid the Red Line if possible. We also issued a series of press releases so that the

local media could get the word out about the accident and resulting service disruptions.

The track between the Takoma and Fort Totten Metrorail stations was re-opened on June 27. From that date through July 2, trains ran at speeds of 35 miles per hour on the Red Line and at much slower speeds through the investigation site. As of July 3, we have lifted the speed restriction except on the segment of the line between the Takoma and Fort Totten Metrorail stations while the NTSB continues its investigation. As a result of restricted speeds and the necessity of operating one train at a time on that segment, other trains along the line will necessarily move more slowly and we are not able to operate as many trains along the line. Metro appreciates the patience of our customers as we continue to work to provide the best service possible under the circumstances. I am as anxious as they are to restore the entire Red Line to normal service.

Metro Actions since June 22

The National Transportation Safety Board is the lead agency in charge of investigating the causes of the June 22 accident. Metro is cooperating fully in that investigation. While it may be months before the NTSB issues a final report, we are not waiting for the final report before taking action to enhance safety for our riders and employees. We have already taken a number of steps to ensure that the system is as safe as possible.

Metro has placed the operation of all of our trains, on every line, in manual, rather than automatic, mode. Automatic Train Control (ATC) is a system that Metro has been using since the Metrorail system opened in 1976 to operate trains during rush hours and other times of day. Until the cause of the accident is determined, I felt that it was prudent to operate in manual mode.

Metro has physically investigated each of the 3,000 track circuits installed on our rail system, and is running daily computerized analytical tests. Metrorail tracks are divided into segments called "blocks." Blocks include "track circuits," which are electrical circuits that are part of a signal system that sends information, authorization, and speed commands between the track and trains. Among other things, track circuits detect the presence of other trains and provide information that is used to maintain safe distances between trains.

Without commenting on the investigation, I can say that the track circuits have been a focus of concern for Metro since the accident. During a special review of the data after the accident, Metro discovered that a specific track circuit in the area of the accident intermittently lost its ability to detect trains. This is not an issue that would have been easily detectable to controllers in Metro's Operations Control Center (OCC).

Prior to the accident, Metro conducted computerized analytical tests on a monthly basis to review what is taking place electronically in the rail system. Metro is currently conducting such tests on a daily basis. We have found no similar anomalies in other track circuits in the system.

In addition, shortly after the accident I directed Metro staff to physically investigate each of the 3000 track circuits on our rail system to check that the circuits are working properly and sending the correct signals. We have now completed our check of those circuits, and determined that 99.97% of them needed no adjustment whatsoever. Three circuits – two in our rail yards and one on the main track – were within the safety tolerance range, but because they were on the lower end of that range, we made adjustments to them.

Metro has requested an independent, external review of our Automatic Train Control system. As an added precaution, we have asked a group of train signal experts from outside Metro to evaluate our automatic train control system equipment and procedures. The American Public Transportation Association will support the efforts of this independent review team, which brings a wealth of real-world experience in track signaling and circuitry.

Metro is running its oldest cars in the center of trains. News reports have also focused on the fact that the cars in the striking train were among the oldest in Metro's fleet, purchased between 1974 and 1978 from Rohr Industries for the opening of the

subway system. These cars make up approximately 25% of Metrorail's fleet. The 1000-series railcars, which have been maintained and rehabilitated throughout their years of use, are safe, or we would not be operating them.

We have a procurement process underway to replacing those cars, as they are approaching the end of their useful life. We are ready to purchase the replacement cars as soon as funding is secured. In the meantime, we are running those 1000-series railcars in the center, or within "the belly," of our trains, rather than as the leading or trailing cars of a train. As of today, 100 percent of those railcars have been shifted.

Metro is continuing to communicate regularly with customers about what to expect on the Red Line. We recognize that it is an inconvenience to a great many of our customers that we have so far been unable to return to pre-accident levels of service on the Red Line. As discussed above, this situation is due to the restrictions currently in place for trains traveling through the accident area. We are doing all that we can to increase the level of service on the Red Line. In recent days, we have increased the total number of trains and the number of eight-car trains servicing that line in recent days. At the same time, we are continuing to make every effort to provide our customers with current, accurate information to assist them in planning their daily travels. We have issued numerous press releases regarding Red Line service since the accident, our email alert system provides regular updates to our

55,000 subscribers, and the passenger information signs in our stations display information throughout the system regarding the service disruptions.

Metro's Capital Needs

The tragedy of June 22 has focused attention once again on the need for greater investment in Metro's aging infrastructure. The first line of the Metrorail system opened in 1976, and we are rapidly approaching middle age. At the same time, ridership is at an all-time high, and is projected to grow still more in the coming decades.

Last fall, Metro released a comprehensive assessment of the agency's capital needs over the next ten years. This capital needs inventory totals \$11.4 billion, and does not include any expansion of the system beyond its current service area. The inventory contains needs covering Metro's rail, bus, and paratransit systems, and includes the replacement of the 1000 series cars as well as upgrades to the automatic train control system, including track circuits and a number of other equipment and subsystems.

As Members of this Subcommittee are well aware, Metro was created primarily to serve the federal government. Today, nearly half of Metrorail's peak period riders are federal employees, and the federal government relies on Metro for daily

transportation of visitors to the capital and for national events such as presidential inaugurations, state funerals, celebrations and festivals on or near the National Mall.

Recognizing Metro's unique relationship to the federal government and that Metro is the only major transit system in the United States without a significant dedicated funding stream, this Subcommittee, the full Oversight and Government Reform Committee, and our local Congressional delegation worked hard to develop legislation, enacted in October 2008, that authorized \$1.5 billion in federal funding over ten years for Metro's capital and maintenance projects, to be matched by an equal contribution from Metro's local funding jurisdictions.

Before Metro can receive the funding, the authorizing legislation requires the Interstate Compact that created Metro to be amended to include three new provisions: the local match for the federal appropriation must be derived from dedicated sources; Metro must have an *Office of Inspector General* (*note: Metro established this office and hired its first IG before the legislation passed*); and Metro's Board of Directors must be expanded to include four federal Board members (two voting members and two alternates).

The District of Columbia, State of Maryland, and Commonwealth of Virginia have passed identical legislation making these amendments to the Compact. The amendments will go into effect once Congress passes, and the President signs, a

Joint Resolution approving them. Joint Resolutions have been introduced in both the House and the Senate.

I want to thank the members of the Subcommittee for their work on the federal authorization for Metro, and urge Congress to do two things: quickly approve the Joint Resolutions on the WMATA Compact, and include the first \$150 million of the \$1.5 billion authorization in the FY2010 appropriations bill. This funding would be used to meet some of Metro's most urgent needs, including replacement of our oldest rail cars and associated infrastructure and support systems.

Conclusion

Safety always has been and always will be our number-one priority. People in this region and around the country are asking whether it is still safe to ride Metrorail or other similar systems. I want to stress that public transportation in general, and heavy rail or rapid transit systems such as Metrorail in particular, are one of the safest modes of transportation available. If the alternative is driving an automobile, the numbers speak for themselves. According to statistics from the U.S. Department of Transportation, from 2000-2007, there were 151 fatalities on heavy rail systems; during that same period, about 327,214 people nationwide were killed in traffic accidents.

We still do not know what caused the tragic accident on June 22. It is my expectation that the NTSB investigation will provide us with an answer to that question in the near future, and that their findings, coupled with Metro's internal review and the independent external review, will guide us in determining what needs to be done to make the Metrorail system even safer and to avoid such a tragedy in the future.

Mr. LYNCH. I thank the gentleman.

Ms. Hersman, you are now recognized for 5 minutes.

STATEMENT OF DEBORAH A.P. HERSMAN

Ms. HERSMAN. Thank you for the invitation to appear before the committee, Mr. Lynch, Mr. Chaffetz, and members of the regional delegation. Ms. Norton has been a long supporter of NTSB's investigations. And Mr. Van Hollen and Connolly, who is my representative, have been very engaged on this accident investigation.

Since 1982, the NTSB has investigated seven accidents on WMATA's property, resulting in 76 recommendations on a variety of issues. I am here today to brief you on the accident that occurred on June 22nd involving two Red Line trains traveling inbound near the Fort Totten station.

There were nine fatalities and scores of injuries transported to local area hospitals. On behalf of the Board, I would like to extend our thoughts and prayers to those who lost loved ones and those who remain in recovery from this accident.

We launched our team within hours of the collision. Parties to our investigation involve many of the people that you see at this table: WMATA, FTA, Amalgamated Transit Union that was at the table before, and the Tri-State Oversight Committee.

We were also assisted, as is customary in our accident investigations, by the FBI's Evidence Response Team, documenting evidence on scene, as well as in the early stages of the investigation by many local responders from the area, who did a great job assisting us.

Let me begin by reviewing some factual information about our investigation.

The standing train, Train 214, was a six-car train consisting of four 3000-series cars and two 5000-series cars placed at the rear of that train. It had stopped before entering the Fort Totten station. It was following a train that was servicing the platform at Fort Totten. The striking train, Train 112, was a six-car train composed of six 1000-series cars, and it was following Train 214.

As you heard from the eyewitness to the accident, when we interviewed passengers after the accident, they told us that there was an announcement that came onboard that there was a train ahead of them, they slowed or stopped, and then they began accelerating, and then the collision occurred. There was no communication between the train operators and Metro's Operations Control Center prior to the collision.

Metro's railcars are approximately 75 feet long. That lead car of the striking train telescoped into this last car of the standing train. Approximately 50 feet of that car's survivable space, or two-thirds of that car's survivable space, was compromised in the collision. Our investigators found metal-to-metal compression marks consistent with heavy braking on both rails of the track for about 125 feet about 425 feet before the point of impact.

Trains operate under the direction of WMATA's Operations Control Center [OCC]. They utilize an automatic train control system that is supplemented by wayside signals at interlockings. The system is designed to prevent collisions regardless of whether or not trains are operating in the manual or the automatic mode. Speed

commands for individual train movements should not allow for more than one train to occupy a track circuit at a time. And the maximum authorized speed for this section of track was 59 miles per hour.

Post-accident testing shows that the track's circuit at the accident site intermittently failed to detect a train that was at that location. On the day of the accident, the system did not detect the stopped train, and the following train did not receive speed commands to slow or to stop prior to the collision.

WMATA's maintenance records show that, on June 17th, 5 days before the accident, that an impedance bond, pictured in the slideshow, was replaced in the track circuit as part of a multi-year program for scheduled maintenance.

Investigators are continuing to examine the train control system's circuitry and recorded data to better understand how the train control system functioned prior to the accident. In addition, we will be conducting, with the assistance of WMATA, some sight distance tests on that stretch of track between Takoma and Fort Totten this weekend.

The Operations Control Center computer system receives real-time train location data. It displays this information on a monitor in the control center. After a post-accident review of the circuit data, WMATA reported that the track circuit intermittently lost its ability to detect a train after June 17th.

WMATA has now assigned personnel to review recorded data once a day to identify anomalies systemwide. They do not have an automatic monitoring system that would identify and promptly report a situation in which a train stops being detected by the system.

That is why we issued two urgent safety recommendations yesterday, one to WMATA and one to FTA. The recommendation to WMATA asks that it enhance the safety redundancy of its train control system that monitors track circuit data so that it can detect any lost trains and immediately alert the control center so that they can stop or slow the trains. The safety recommendation to FTA urges it to alert other transit operators that have systems similar to Metro's to determine if their systems have adequate safety redundancies and, if they don't, to take corrective action.

Thank you for inviting me here today. I am happy to answer any questions.

[The prepared statement of Ms. Hersman follows:]

National Transportation Safety Board

**490 L'Enfant Plaza, SW
Washington, D.C. 20594
(202) 314-6000**



**Deborah A.P. Hersman
Board Member**

**Testimony of the Honorable Deborah A.P. Hersman
National Transportation Safety Board
Before the
Subcommittee on Federal Workforce, Postal Service, and the District of Columbia
Committee on Oversight and Government Reform
United States House of Representatives
Washington, D.C.**

**Hearing on Washington Metropolitan Area Transit Authority Metrorail Accident
July 14, 2009**

Good morning, Chairman Lynch, Ranking Member Chaffetz, and Members of the Subcommittee. Thank you for the opportunity to appear before you today on behalf of the National Transportation Safety Board (NTSB) regarding the recent collision between two Washington Metropolitan Area Transit Authority (WMATA) Metrorail trains. Today, I am pleased to provide you information about our investigation of this accident and facts that we have determined to date. However, the investigation is ongoing and our staff has much work to do before we can draw conclusions or determine probable cause.

On Monday, June 22, 2009, about 4:58 p.m., eastern daylight time, southbound Metrorail train 112 was travelling in a curve when it struck the rear end of train 214 before reaching the Fort Totten station in Washington, D.C. Train 214 had stopped before entering the station to wait for another train to leave the platform. The District of Columbia Fire and Emergency Medical Service reported 9 fatalities and that it transported about 52 persons to local hospitals.

The NTSB was notified about the collision between the two Metrorail trains about 5:30 p.m. An investigative team was launched promptly to the accident site, including staff from the NTSB's headquarters in Washington, D.C. and our regional offices in Chicago, Illinois, and Los Angeles, California. The NTSB team included an investigator-in-charge and technical investigative staff for transit operations, track, signals and train control, mechanical factors, crashworthiness, human performance, event recorders, survival factors, and emergency response. Additional investigators from NTSB's Offices of Research and Engineering, Highway Safety, and Aviation Safety responded to assist in the investigation. NTSB's Office of Transportation Disaster Assistance provided passengers and families of those involved in the accident information about NTSB investigation activities and access to support services. I also launched to the accident site as the NTSB Member on duty. During the on-site investigation as many as 27 NTSB personnel were involved.

A Federal Bureau of Investigation forensic team assisted in the documentation of the accident site and passenger car interiors, and worked with fire and rescue personnel in the recovery process. WMATA, the Federal Transit Administration, the Amalgamated Transit Union, and the Tri-State Oversight Committee are parties to the NTSB accident investigation.

There was no communication between the train operators and the Metrorail Operations Control Center before the collision. During the collision, the lead car of train 112 telescoped and overrode the rear car of train 214 by about 50 feet. Investigators found rail streak marks

consistent with heavy braking that were approximately 125 feet long and began approximately 425 feet prior to the point of collision.

The stopped train, 214, was a 6-car train in passenger service consisting of two 2-car sets of 3000-series transit railcars and one 2-car set of 5000-series transit railcars. The train 214 operator told investigators that he was operating in manual mode at the time of the accident. The striking train, 112, was a 6-car train in passenger service consisting of three 2-car sets of 1000-series transit railcars being operated by the train operator in the automatic mode.

Trains operate under the direction of WMATA's Operations Control Center and utilize an automatic train control system supplemented by wayside signals at interlockings. WMATA procedures require trains to operate in automatic mode on the mainline during the morning and evening rush hours, unless an operator requests permission to operate manually. During off-peak hours, trains operate in manual mode. Maximum authorized speed in the accident area is 59 mph. The automatic train control system is designed to prevent collisions regardless of whether a train is operated in manual or automatic mode by generating speed commands for individual train movements that should not allow more than one train to occupy a track circuit.

Postaccident testing by NTSB investigators showed that the track circuit at the accident site intermittently failed to detect a train stopped at the location where train 214 was stopped when the collision occurred. Under such circumstances, the train control system would not be aware of the train's location, and thus a following train would not receive a command to slow or stop in order to maintain train separation. Investigators are continuing to examine train control system circuitry and recorded data to better understand how the train control system was functioning at the time of the accident.

WMATA maintenance records showed that an impedance bond for the track circuit where the accident occurred was replaced on June 17, 2009, 5 days before the accident. The impedance bond was replaced as part of a scheduled multi-year program to upgrade train control circuitry. After a postaccident review of recorded track circuit data, WMATA reported that the track circuit had been intermittently failing to detect trains after June 17. The NTSB has not uncovered any evidence to suggest that WMATA was aware of this track circuit problem prior to the accident.

The Operations Control Center computer system continuously receives real-time train location data and displays this information on a monitor in the control center. Recorded track circuit data showed errors in train detection for several days before the accident. The investigation has found that there is no automatic monitoring that would identify and promptly report a situation in which a train stops being detected by the system. WMATA has informed the NTSB that since the accident it has assigned personnel to review recorded data once a day to identify track circuit anomalies systemwide.

The striking train did not have any onboard event recorders that would have recorded train speed and other parameters. Investigators have collected recorder data from the struck train. Data was recovered from eight of the nine recorders on the struck train. Data could not be downloaded from one recorder. Two of the eight recorders did not contain data related to the

accident; data collection ended before the accident for undetermined reasons. The accident data is now being examined by investigators in the NTSB laboratory.

NTSB's technical groups are examining and documenting factors in the following areas.

Signal and Train Control. Testing and inspection of the in-track signal components and their function with the automatic train control system is ongoing. This includes evaluation of the design, monitoring, and operational characteristics of the automatic train control system and the system communications between the signal circuitry and the Operations Control Center. The group is also examining the installation process for the replacement of components of the wayside track signal circuitry. The train control system is complex and will require a thorough investigation of all components.

Crashworthiness. This group is documenting and evaluating the performance of passenger equipment involved in this accident and comparing the information with previous NTSB accident investigations on the Metrorail system, including collisions at Shady Grove in 1996 and Woodley Park-Zoo/Adams Morgan in 2004.

Transit Operations. This group is documenting and reviewing the activities, responsibilities, and procedures for train operators and the Operations Control Center; management oversight; and safety oversight from Federal and state organizations.

Mechanical. This group is testing and inspecting passenger car components including brake condition, wheel condition, and equipment operation from the operator's compartment. It is also reviewing maintenance and repair records for equipment.

Human Performance. NTSB investigators are examining the work experience, health, work/rest schedule, qualification, training, and activities of each train operator involved in the accident. They are also examining the qualification, training, and experience of signal personnel involved in the maintenance and replacement of components of the automatic train control system.

Track. We are mapping and documenting the accident site for equipment location, relation to stations, wayside signal components, track characteristics, physical characteristics of the area, and physical evidence at the accident site.

Survival Factors. This group is documenting and evaluating injury-producing features of the interior of the passenger equipment, interviewing passengers, and examining hospital records and injury reports. It is also evaluating emergency response efforts in the extrication of passengers, accessibility to injured passengers, and site access.

Event Recorders. We are evaluating data downloaded from event recorders onboard the train that was struck. We are also evaluating data recorded at signal and train control wayside installations and the Operations Control Center for the automatic train control system.

The NTSB accident investigation will continue for several months; however, the Board may issue safety recommendations anytime before the completion of the final accident investigation report if it believes action is needed to prevent future accidents.

Thank you for the opportunity to appear before you today, and I am happy to answer questions that you may have.

Mr. LYNCH. Thank you. Thank you for your testimony.
Mr. Rogoff, you are now recognized for 5 minutes.

STATEMENT OF PETER M. ROGOFF

Mr. ROGOFF. Thank you, Mr. Chairman, Ranking Member Chaffetz, and other members of the subcommittee. The Federal Transit Administration appreciates very much being called to testify on the overall safety posture of our Nation's rail transit systems and the FTA's very limited role in overseeing rail transit safety.

As we address this issue of transit safety, it is essential to remember that rail transit remains our safest form of surface transportation by far. The citizens of the Washington area are always far safer riding in a Metro railcar, any type of Metro car, than traveling on the highway. The Metrorail system has experienced 13 on-board crash-related fatalities during its 33-year history. And while every one of those fatalities has been a tragedy, the fact is that automobile accidents on the roads of the Washington area claim the same number of fatalities every 2 weeks. Any proposal that could result in passengers getting in their cars versus riding Metro will immediately degrade safety.

That said, the Obama administration believes that there are improvements and reforms that can and should be made to make our transit systems even safer.

While it is not very widely known right now, our Nation's rail transit systems operate under two very different Federal safety regimes. Commuter rail systems, like MARC and the VRE, are subject to the Federal Railroad Administration's very extensive safety regulations. Those rail transit systems are governed by national mandatory safety standards and may undergo onsite spot inspections and audits by Federal inspectors. Those Federal safety inspectors are empowered to dictate operating practices and assess fines for any deficiencies found.

By contrast, rail transit systems, like Washington Metro, the New York City Subway, the trolley operations and the "T" in Boston, and 45 other systems are subject to a very different Federal safety regime. In the case of those rail transit systems, the States are expected to establish and implement a safety program. The role of the Federal Transit Administration is limited to setting minimum program requirements and assuring that the States have a safety authority in place.

In performing our safety oversight role, the FTA is prohibited, as a matter of Federal law, from dictating safety practices or setting mandatory national standards. FTA does not have the authority to assess fines, set operating rules, or even mandate the level of technical expertise the State authorities must have. And, unfortunately, the vast majority of these State agencies, including the tri-State authority that oversees Metro, are very thinly staffed.

The distinction between these two safety systems was plainly apparent at the site of the recent Red Line crash. When I visited the crash site at the invitation of Member Hersman, I saw a chainlink fence that separated the Metro tracks from other tracks in the same corridor that served Amtrak, MARC, and CSX trains. Under our two separate safety systems, the Federal inspector that periodi-

cally inspects the tracks serving Amtrak and MARC cannot inspect the track on the other side of the fence, the side serving Metro.

As the new team has come on board with the Obama administration, we find the status quo to be unacceptable and we expect to propose reforms. Secretary LaHood has established a multi-modal departmental committee chaired by Deputy Secretary Porcari to identify alternative approaches to address what we consider a gap in transit safety oversight. The team will review the different safety authorities and inspection regimes we have at DOT with an eye toward proposing reforms to Congress soon.

Now, on the matter of financing, it is impossible to discuss the issue of safety of our Nation's transit systems without simultaneously discussing the financing of those systems. At the FTA, we find that the systems that are adequately financed are those with a dedicated funding source that provides a predictable revenue stream, and WMATA does not have such a system.

WMATA does benefit from a regular stream of Federal formula grants that totaled approximately \$220 million in 2008. Also, WMATA operates in the only region of the United States where the Federal Government has mandated transit benefits for all Federal employees. That generates an additional \$170 million each year in fare box revenue for WMATA.

In addition to these Federal resources, the Secretary and I do support congressional efforts to make matching Federal grants available to WMATA for 2010, while working within the overall spending ceiling established in the President's annual budget. We believe strongly, however, that these Federal matching funds must be used by WMATA to address the most safety critical issues in the system as identified by appropriate vulnerability assessments.

I want to make clear that in calling for reform and endorsing additional funding for WMATA, I do not intend to leave the impression that the cause of the recent Red Line disaster was related to inadequate safety rules, inadequate safety oversight, inadequate funding, or poor compliance on the part of Metro. Only the NTSB investigation will reveal to us the true cause or causes of the accident. And we at the FTA stand ready to review and implement any recommendations that arise from the Board's investigation, just as we did yesterday evening, while working within the very limited safety authorities we have under current law.

Mr. Chairman, my time is up. I hope I will have an opportunity later to respond to the concerns raised by Mr. Mica regarding our grant rules. And maybe we can do that in Q and A.

And, with that, I thank you for the opportunity to testify.

[The prepared statement of Mr. Rogoff follows:]

**STATEMENT OF
PETER M. ROGOFF, ADMINISTRATOR
FEDERAL TRANSIT ADMINISTRATION**

**BEFORE THE
SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE, AND THE
DISTRICT OF COLUMBIA
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES**

**“Back on Track: WMATA Red Line Metrorail Accident and
Continual Funding Challenges”**

July 14, 2009

Mr. Chairman, Ranking Member Chaffetz, Delegate Norton, and members of the subcommittee, thank you for inviting me to appear before you today to discuss the Federal Transit Administration's (FTA) safety oversight of the Washington Metropolitan Area Transportation Authority (WMATA).

Secretary LaHood and I would like to express our sincere condolences to those who lost loved ones in the accident on June 22, 2009. Our thoughts and prayers go out to the families and friends affected by this tragedy.

Before I address the specifics of FTA's safety oversight, I note that FTA's role in transit rail safety is extremely limited as a matter of Federal law. Our nation's rail transit systems operate under two very different Federal safety regimes. Some FTA funded rail transit systems are governed by the Federal Railroad Administration (FRA) safety regulations while others are governed by the States. For example, commuter rail operations on the general system of railroads like Virginia Railway Express and Maryland Area Regional Commuter fall under FRA's safety regulatory system that includes national mandatory safety standards and on-site spot inspections and audits by Federal technical specialists and inspectors with backgrounds in train control, track operations and other disciplines. FRA is also empowered to dictate operating practices and assess fines on these transit operators for any deficiencies found. On the other hand, for rail systems not subject to FRA oversight, such as the WMATA and the New York City subway system, the State is expected to take the lead for oversight and require those systems to stand up a safety program. The State is then expected to monitor the transit system's implementation of its safety program and FTA's role is to set minimum requirements for States and to monitor the States' implementation activities. FTA is prohibited by law from establishing national safety standards, requiring Federal inspections, or dictating operating practices.

As Secretary LaHood and the new Administration team has come on board and reviewed the existing legal authorities, we believe that the status quo, with its two distinct systems of rail safety oversight, is in need of reform. Secretary LaHood has

directed us to take a fresh look at how the Federal government provides oversight for transit safety. To that end, the Secretary has established a multi-modal Departmental committee, chaired by Deputy Secretary John Porcari, to identify and consider alternative approaches to effectively address what we consider a gap in safety oversight. The current State Safety Oversight ("SSO") structure (with a few exceptions) lacks sufficient authority to provide for a uniform approach to transit system safety.

Secretary LaHood's team of safety officials and experts within the Department is focused on developing options for transit safety reforms. This team will review the many alternative models within DOT to address safety as well as review the statutory authority on safety for transit with an eye toward developing reforms. In addition, I have called upon my staff to review our safety goals and priorities to determine resource needs and identify improvements that we can make now, within our existing legislative framework, to improve safety for transit systems across the country.

Rail transit provides more than 3 billion passenger trips each year, and moves millions of people each day. Thus, as we discuss transit safety reforms, it is critically important to remember that transit systems like WMATA remains a very safe mode of transportation and is the safest way to travel in Washington, D.C. or in any city in the United States. Over the past seven years, national passenger fatality rates for heavy rail transit have run about 0.03 per million passenger miles. This is a lower rate than most other modes of transportation and far safer than traveling by automobile.

It is impossible to discuss the issue of the safety of our nation's transit systems without simultaneously discussing the financing of these systems. In our experience, the systems that are adequately financed are those that have a dedicated funding source. The WMATA system does not have such a dedicated revenue stream. WMATA does, however, benefit from a regular stream of Federal formula grant funds totaling approximately \$220 million in FY '08 and also operates in the only city in the United States for which transit benefits are mandated for all Federal employees. This provision alone generates fare box revenue for WMATA totaling roughly \$170 million per year. In addition to these Federal resources, the Secretary and I support Congressional efforts to make WMATA more financially viable with dedicated revenue funding sources, including matching Federal grants available to WMATA for 2010, while working within the overall spending ceiling established in the President's annual budget. However, we believe strongly that these Federal matching funds must be used by WMATA to address the most safety critical issues in the system as identified by appropriate vulnerability assessments.

I would now like to address how FTA has utilized the safety authority it has. By way of background, FTA's SSO program affects 27 States and 48 rail transit agencies nationwide.

FTA's involvement in safety began in 1991 when Congress first authorized a safety program for FTA. The SSO program was developed in response to recommendations from the National Transportation Safety Board (NTSB) as the result of their extensive

study of oversight options for rail transit. The design of the program places primary responsibility for rail transit safety oversight with the States and, as I mentioned earlier, FTA is only responsible for setting minimum program requirements to be met by the States and for monitoring implementation of the program.

The first few years of the program were challenging ones. When FTA finalized its safety regulation in 1995, only five States had existing oversight programs, and not one of these programs fully met FTA's requirements.

FTA worked with the Transportation Safety Institute (TSI) and the National Transit Institute (NTI) to establish safety and security training programs that would address a range of technical issues faced by industry. This training is provided free of charge, and has been given to the majority of SSO agencies and representatives from the affected rail transit safety and security departments. FTA believes this training is critical to ensure that personnel involved in implementing the SSO program develop core competencies in rail transit safety. Over the past four years, nine courses were funded by FTA and conducted by TSI at WMATA. This week, TSI is conducting a course on managing transit emergencies.

Further, to fulfill our obligation to monitor the SSO program implementation, FTA initiated compliance audits of SSO agencies in the fall of 1998. This is a program comprised of pre-audit interviews and document reviews, on-site program examination, and generation of a final audit report, delivered in draft form to the SSO agency at the exit interview. FTA also established an annual report that is submitted by the SSO agencies documenting their oversight activities for the year and collecting detailed information regarding the rail transit accidents occurring in their jurisdictions.

In 2003, we initiated a rulemaking to update our safety regulation based on the results of our SSO audit program as well as input from NTSB and FRA. On April 29, 2005, our revised final rule was published, with an effective date of May 1, 2006. The revised rule clarifies that program requirements apply in situations where rail transit agencies are built entirely with State and local funds, but plan to receive FTA formula funds during revenue service. Examples of these systems include Houston Metro's light rail and New Jersey Transit's River Line. The revised rule also addressed an NTSB recommendation regarding the need for proficiency and compliance testing for operations and maintenance personnel.

In August 2005, the Safe Accountable Flexible Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) amended the SSO program. First, SAFETEA-LU required that the program be extended to rail transit projects that are in the design phases. Second, SAFETEA-LU clarifies that in those instances where a rail transit agency operates across State lines, the rail transit agency shall not be subject to more than one set of safety oversight standards.

Regarding the role of SSO agencies in projects in the design phase, we increased coordination with our Regional Offices, and now invite the SSO agencies to Quarterly

Review Meetings conducted for New Starts projects in their jurisdictions. We are also requiring Safety and Security Management Plans for all major capital projects. A critical element addressed in these plans relates to the grantee's readiness to comply with SSO requirements with the initiation of revenue service. Finally, our Project Management Oversight contractors interface with SSO agencies and personnel during their monthly visits to the projects to identify and resolve any potential issues. FTA already addressed the multi-State coordination issue in its 2005 revised rule.

For WMATA, the SSO Agency is the Tri-State Oversight Committee (TOC), which is comprised of the part time, collateral efforts of different personnel from Virginia, Maryland, and the District of Columbia. The TOC is charged with implementing 49 CFR Part 659 requirements for WMATA and was created through a 1997 memorandum of agreement between the District of Columbia, the State of Maryland, and the Commonwealth of Virginia. Each of the three jurisdictions has two representatives on the TOC. In 2008, the TOC reported 2,291 staff hours working on SSO activities, and 1,705 contractor hours working on SSO issues. This level of effort has been relatively stable over the previous three years and translates into the equivalent of less than two full time employees for their entire oversight effort during 2008.

FTA has conducted several SSO program audits of TOC since Part 659 went into effect on January 1, 1997. The most recent audit was conducted in October 2007. Previous audits took place in 2000 and 2005. FTA also conducted a Safety Review in 1997. The 2007 audit was conducted as part of FTA's three-year audit cycle for all 27 SSO agencies in the audit program. During this audit, while on-site at TOC and WMATA, FTA also reviewed the progress made by TOC and WMATA to address two findings that were still open from FTA's 2005 SSO Program audit of TOC. In addition, FTA used this opportunity to assess WMATA's response to Safety Recommendation R-06-4 from the National Transportation Safety Board (NTSB), which addressed the adequacy of WMATA's organizational structure and its ability to effectively identify safety issues. Prior to the Woodley Park-Zoo accident, the WMATA Safety Department reported to the General Manager through a Deputy. Shortly after, WMATA changed its organization so that the Chief Safety Officer and head of System Safety and Risk Management (SSRM) was a direct report to the General Manager. NTSB correspondingly classified this recommendation as "Closed – Acceptable Action".

However, in recent months, WMATA has re-organized the Chief Safety Officer position to report to the Chief Administrative Officer, who reports to the General Manager. FTA asked the TOC to follow up with WMATA. WMATA has assured the TOC that the organizational changes do not adversely affect safety and that the "visibility and importance of the safety department will not diminish". FTA continues to view the NTSB recommendation as a sound safety model and the current structure at WMATA causes us concern.

In conclusion, FTA's existing Federal statutory authority presents significant challenges in ensuring consistent national safety standards for many rail transit systems. Even so, Secretary LaHood and I are committed to transit safety reforms. We look to Congress

to partner with us to develop a transit reform strategy that is consistent and provides the highest level of safety across all types of public transportation.

Thank you again for the invitation to be here today and I would be happy to answer any questions that you may have.

Mr. LYNCH. I thank the gentleman.

Mr. Madison, you are now recognized for 5 minutes.

STATEMENT OF ERIC MADISON

Mr. MADISON. Distinguished members of the committee, good afternoon, and thank you for inviting me to discuss rail operations and safety at the Washington Metropolitan Area Transit Authority [WMATA], and the tragic accident of June 22, 2009, as well as the activities of the Tri-State Oversight Committee [TOC].

Before I begin, I would like to take this opportunity, on behalf of the members of the TOC, to express our heartfelt sympathies and condolences to the victims and the families of those who were affected by this tragic accident. We will continue to keep them in our thoughts and prayers.

The members of the TOC are fully committed to working closely with WMATA, the Federal Transit Administration, the NTSB, and Congress to improve safety operations and prevent another similar accident from ever occurring again.

My testimony will provide a brief overview of the State Safety Oversight program in general, as prescribed by 49 Code of Federal Regulations, Part 659, and the TOC's roles, responsibilities, and authorities. I will also discuss the TOC's recent history and address the limitations faced by the TOC in performing safety oversight and regulation of WMATA.

The TOC is the State Safety Oversight agency [SSO], responsible for overseeing Metro's rail safety program. Under 49 CFR, Part 659, each State with a rail transit agency, like the Metro system, that receives FTA funding and is not under the jurisdiction of the Federal Railroad Administration must designate a State agency to carry out the SSO requirements. The TOC is a joint effort of staff from State government agencies from the District of Columbia, Virginia, and Maryland.

State safety oversight agencies approve a transit agency's safety and security plans, review accident reports and corrective action plans, and conduct periodic safety audits, among other tasks. Unlike some transportation regulators like the FAA and the FRA, the TOC lacks the authority to levee fines or enforce civil penalties for noncompliance.

In 2006, the Government Accountability Office conducted an assessment of the SSO program on a national level, including a case study on multistate SSOs including the TOC. The GAO report made note of administrative, financial, and organizational issues facing the TOC, to which we have responded by streamlining our organization, further empowering the TOC Chair, and improving our working relationship with WMATA.

In addition to the GAO report, the Federal Transit Administration audited the TOC program in 2007. The audit resulted in eight findings of "noncompliance" and four findings of "compliance with recommendations." Working with WMATA, TOC was able to close all but two findings of "noncompliance" and one finding of "compliance with a recommendation." The TOC is in the process of preparing its next audit response submission to the FTA and expects to satisfy the three remaining audit findings in the near future.

While the administration of the TOC program has improved, significant challenges remain. These include the lack of a traditional regulatory structure and continued funding constraints.

The TOC has limited regulatory authority under 49 CFR, Part 659. The only authority inherent to 659 is the ability of the SSO to recommend to the FTA to withhold 5 percent of grant funding if the rail transit agency is noncompliant. Compliance with the SSO program is a requirement for FTA funding; however, SSO agencies themselves receive no FTA funds for program administration.

Despite its limitations, State safety oversight programs nationwide have improved and expanded in the last few years. For example, the FTA now funds some training through the Transportation Safety Institute as well as hosting workshops for SSO managers. Such courses have helped to improve the program overall and should be continued.

The TOC is professionally and personally invested in the safety and security of the Metrorail system. Our members, as well as their friends and loved ones, are regular Metrorail riders. We hope our testimony can assist Congress with assessing and improving the SSO program and, in turn, improve rail transit safety nationally.

With that, I conclude my statement and look forward to your questions.

[The prepared statement of Mr. Madison follows:]

Testimony of
Eric Madison
Chairman, Tri-state Oversight Committee

***“Back on Track:
The WMATA Red Line Metrorail Accident”***

Committee on Oversight and Government Reform
Subcommittee on the Federal Workforce, Postal Service,
and the District of Columbia
United States House of Representatives
The Hon. Stephen F. Lynch, Subcommittee Chair
The Hon. Jason E. Chaffetz, Ranking Member

July 14, 2009
2:00 pm

Room 2247
Rayburn House Office Building
Washington, DC 20515

Testimony of Eric Madison, Chairman of the Tri-State Oversight Committee
 House Subcommittee on Federal Workforce, Postal Service, and District of Columbia
 Public Hearing on WMATA Rail Operations
 July 14, 2009

Introduction

Chairman Lynch, Ranking Member Chaffetz, distinguished members of the Subcommittee, good afternoon. I would like to thank you for the opportunity to appear before this committee to discuss the WMATA Rail Operations, the tragic accident of June 22, 2009, and the activities of the Tri State Oversight Committee (TOC). The TOC believes that the Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia, plays an important role in assessing the Metro Rail system's safety as well as rail transit safety throughout the country.

Before I begin, I would like to take this opportunity on behalf of the members of the TOC to express our heartfelt sympathy and concern to the families of those who died and were injured in this tragic accident. We will continue to keep them in our thoughts and prayers. The members of the TOC are fully committed to working closely with WMATA, the Federal Transit Administration (FTA), and Congress to improve WMATA rail operations to prevent another tragic accident from occurring.

I must note that presently, the TOC is a party to the National Transportation Safety Board's (NTSB) investigation of the June 22nd Red Line collision. Within an hour of receiving notification of the accident, the TOC had members from all three jurisdictions at the accident scene, working alongside WMATA, the NTSB and other first responders. The TOC has been working closely with the NTSB investigation, has members assigned to working groups, and other tasks related to the investigation. Under the NTSB's protocol, all parties (other than the NTSB's designated spokesperson) are prohibited from publicly discussing specifics about the accident, the accident investigation, or drawing any public conclusions until after the NTSB Final Report has been issued. This is intended to protect the integrity of the investigation process. As such, I would respectfully request that if you have any specific questions regarding the accident, that you present them to the NTSB. Once the NTSB has issued its final report, the TOC may issue a supplemental report about the June 22nd tragedy and the corrective actions the TOC will recommend to WMATA.

My testimony will address three primary areas. First, I will provide a brief overview of the State Safety Oversight (SSO) program in general as prescribed in Section 49 of the Code of Federal Regulations (C.F.R.) Part 659 and the TOC's roles, responsibilities and authority. Second, I will discuss the TOC's recent history in working with WMATA to address safety deficiencies that were noted prior to the tragic June 22nd collision. Third, I will address the limitations experienced by the TOC, which are above and beyond those faced by other traditional regulatory agencies.

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SSO/TOC Overview

The TOC is the SSO agency responsible for the oversight of the Washington Metropolitan Area Transit Authority (WMATA)'s rail transit operations. Pursuant to section 49 Code of Federal Regulations, Part 659, each state with a rail transit or fixed guideway system that receives FTA funding, and is not under the jurisdiction of the Federal Railroad Administration (FRA), must designate an agency of the state to carry out SSO requirements. In general, almost all heavy rail rapid transit systems such as WMATA, the New York City Subway system, other large City subway systems, and light rail systems are outside the jurisdiction of the FRA and as such come under the jurisdiction of the SSO, if they are funded by the FTA.

The states can determine which entity can conduct the oversight, as long as it is not the transit agency itself. In brief, section 49 C.F.R. Part 659 requires state safety oversight entities to perform the following tasks:

- develop standards for the transit system's safety and security plans and procedures;
- oversee the execution of these plans and procedures;
- review and approve those plans annually;
- investigate accidents and hazardous conditions that meet certain criteria prescribed in 49 CFR Part 659, or direct the transit agency to investigate them on the TOC's behalf based on accident investigation procedures approved by the TOC;
- require the transit agency to develop corrective action plans to address safety deficiencies from a variety of sources including accident, incident and hazardous condition investigations, and both internal and external reviews of the transit system;;
- approve the corrective action plans and monitor their implementation,;
- require the transit system to develop internal safety and security audit programs, conduct those audits, and monitor their results; and
- conduct independent reviews of the implementation of transit systems' safety and security plans on a three-year basis, at a minimum.

SSO entities can also conduct other activities as they deem appropriate based upon state-specific requirements. Moreover, Section 49 C.F.R. part 659 requires SSO agencies to certify to the FTA that it has complied with the requirements of this statute.

Unlike most SSO programs, where the rail fixed guideway operates within the borders of a state, WMATA's rail system operates in more than one state. The

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TOC was organized in 1997 and its membership has included fire chiefs, emergency managers, transportation planners and transit specialists. Currently, the TOC has members from the District Department of Transportation, the Maryland Department of Transportation, and the Virginia Department of Rail & Public Transportation. It would be inefficient to have three distinct SSO agencies from each jurisdiction served by WMATA's Metrorail. Instead, each agency designates two members as well as alternate members if needed, and the Chair of the TOC rotates annually between jurisdictions. The District of Columbia currently holds the Chair and Virginia as the Vice Chair.

TOC's Recent History

Since the 2006 Government Accountability Office audit of the TOC, its membership has taken significant steps to address issues of funding, personnel resources and administrative processes. While the audit noted a significant backlog of accident reports and corrective actions for the WMATA transit system, the TOC and WMATA have been working aggressively to close these reports and plans. Over the past year, concerted efforts have reduced the backlog of open investigations. TOC has either adopted or closed 83 WMATA investigation reports, but during this period fifty-five new investigations of reportable accidents/incident were initiated. Currently, there are forty-three investigations remaining open.

The GAO report noted that the TOC administrative processes were cumbersome, which hindered its ability to react. In part, this problem exists because the TOC is comprised of three separate jurisdictions, which presents a variety of operational and logistical challenges. There are various challenges that arise due to the fact that each member has to adhere to the laws, regulations, and policies of their respective jurisdiction, which sometimes do not mesh well. With time and persistence, the members of the TOC have taken the necessary measures to perform the TOC's oversight tasks. For example, the TOC program procedures have been revised to allow the Chair and Vice Chair more latitude in decision-making.

The report also stated that "hiring a full-time administrator, or designating a TOC member to serve in a full time capacity" would help to significantly improve the program. Earlier this year, Virginia hired a Manager of Safety, Security & Emergency Preparedness whose full-time assignment is to serve as a TOC representative. The District of Columbia and Maryland are also working to secure additional resources. In addition, the TOC retains technical specialists in a wide variety of rail transit disciplines to assist it in its oversight efforts.

The TOC has moved quickly to meet the audit recommendations and taken other steps to be more effective. For instance, the TOC has changed its practice of

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holding monthly conference calls to monthly face to face meetings with WMATA safety staff. Recently the TOC has held monthly, in-person meetings with WMATA, FTA and TSA representation. These meetings occur in concert with focused work sessions in which TOC and WMATA staff review and respond to open action items.

More importantly, the TOC has tracked, reviewed, critiqued, and approved (as warranted) Corrective Action Plans (CAPs) proposed by WMATA to address findings emanating from investigation reports, hazard mitigation, internal audits, and external reviews including TOC's Triennial Reviews and industry peer reviews. The TOC monitored the implementation of the CAPs, and closed them upon verification of completion. Over the past year, 30 CAPs were closed, but 75 new caps were added, resulting in a total of 122 CAPs that remain open. The TOC is working aggressively with WMATA to close this backlog of CAPs. The process of resolving CAPs, however, can be lengthy since many require WMATA to implement new engineering, operational, or maintenance practices.

In addition to the GAO audit, the FTA performed an audit of the TOC's SSO program in 2007. The audit resulted in eight Findings of Non-Compliance and four Findings of Compliance with Recommendations. Due to concerted efforts of TOC with the cooperation of WMATA, all but two findings of non-Compliance and one finding of compliance with recommendation have been closed by FTA. TOC is in the process of preparing its next audit response submission to FTA and expects to satisfy the three remaining audit findings in the near future.

TOC/SSO Challenges

While the administration of the TOC program has improved, significant challenges remain. The challenges are lack of a traditional regulatory structure and funding. The TOC has limited regulatory enforcement authority, based on 49 C.F.R. Part 659, which provides that the TOC can recommend that FTA withhold federal grant funds when WMATA is non compliant, however FTA can only withhold up to five percent of grant funding. These issues make it more complicated for the TOC to ensure that WMATA will expeditiously comply with TOC recommendations.

In particular, when the TOC conducts a safety and security audit, it is difficult to require or mandate that WMATA take action on identified findings. Similarly, WMATA may identify a hazardous condition, but unless they have funding and resources available to correct it, the TOC can only track the problem and request periodic updates. The TOC transmits formal correspondence expressing concerns in some instances, but WMATA retains the ability to respond at their discretion.

Unlike the FRA or the Federal Aviation Administration (FAA), transit's SSOs do have the authority under 49 CFR part 659 to enforce findings or

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recommendations with fines, civil actions or other penalties. Any such authority must come from state legislatures, which becomes more complex for the TOC because its membership is made up of three separate jurisdictions. The state safety oversight program was designed by FTA to function as a "cooperative" effort with the transit agencies systems and as such it was not designed to operate under the traditional regulatory framework of civil fines and penalties.

Since the FRA and FAA regulate interstate commerce, they have broad constitutional authority to establish their safety oversight powers. However, the FTA (formerly the Urban Mass Transit Administration, or UMTA) was formed to disburse grants and assistance to rail and bus systems, few of which cross state lines in their operations. Although the FTA does fund limited training and travel for SSO safety oversight agency personnel, but currently there are no federal funds directly allocated to states for state safety oversight agency operations. Additional funding, resources, and continued training for the SSO program would be beneficial for effective oversight.

Despite these funding limitations at the transit system level, safety oversight programs have improved in the last few years. As I mentioned, currently the FTA funds some training through the Transportation Safety Institute as well as workshops for SSO managers. Such courses have helped to improve the overall baseline of SSO competence. They represent positive steps and should be continued.

Major rail transit systems receive tens of billions of federal dollars every year, the receipt of which is predicated on compliance with their SSO agency's program standards. Yet SSO agencies do not receive federal funding to support their personnel or program management costs. For cash-strapped state agencies, many of whom now face major budget shortfalls, maintaining an appropriately staffed and funded oversight program can be difficult.

Conclusion

In closing, let me thank the Subcommittee once more for the opportunity to provide testimony in this important matter. The safety of America's millions of daily transit passengers is a pressing concern for Congress, SSO programs, and transit systems. We are all aware of the aging infrastructure of most of the country's rail systems and the need for expensive upgrades for many transit systems to adequately serve passengers. It is our hope that Congress will seek additional funding for rail infrastructure, SSO support programs, and necessary legislation to improve rail safety operations.

The TOC will continue to strengthen our working relationship with WMATA. Equally important, the TOC will continue to work with the NTSB during the investigation of the June 22nd accident and will work to implement the necessary

Testimony of Eric Madison, Chairman of the Tri-State Oversight Committee
House Subcommittee on Federal Workforce, Postal Service, and District of Columbia
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improvements. The members of the TOC have a vested interest in making the WMATA rail system operate safely because most of our members and their families ride the system daily. I look forward to your questions and thank you for your time and consideration.

Mr. LYNCH. I thank the gentleman.

I now yield myself 5 minutes.

We obviously have some votes pending, but what I would like to do is to keep the hearing going so that we are not here at an unreasonably late hour.

Mr. Graham, in trying to follow the budgetary priorities for the Washington Metro Area Transportation Authority, I know that the administration and Oversight Committee just preliminarily approved a \$177 million system infrastructure and rehab program.

And trying to follow those items, it appears—and I may be wrong, so I am not opposed to being corrected on this—like the project includes new escalators, platform rehab, track repairs, upgrades to the train power system and, most relevant here, the automatic train controls, but I could not find any allocation, probably because of the significant cost, to new train sets. In other words, retiring that 1000-series and bringing in the 7000 or whatever the next iteration of that train set might be.

What are the plans? And does the work that was done last night by the local regional delegation and Mr. Olver on the Transportation Appropriations Committee of \$150 million change the dynamic here, and what might we expect?

Mr. GRAHAM. Mr. Chairman, it most definitely does change the dynamic. As you know, we have an RFP, which we have received bids on, for replacement of the 1000-series cars, as well as new cars for the expansion to Dulles, and what we are waiting on is the dedicated funding. There is no question about it.

And if I may add, in terms of the \$177 million Red Line rehab, it has gone through the committee but has not been approved by the board of directors. In fact, our board is well aware of the fact that there may be additional demands that will take a higher priority than what has been set forth in that proposal.

Mr. LYNCH. OK.

I still have several minutes left, and I am going to have to take these answers on the record. I would like to ask each of you what you think the priorities are for the next step. What has to happen next in terms of whatever you think the top priorities should be, whether it is in response to this accident or infrastructure needs, operational needs, or the grant programs that Mr. Rogoff was talking about earlier.

And I am going to yield, and I am going to allow the answers to go on the record. And I am going to ask Mr. Eleanor Holmes Norton to take the chair and to continue with the process and use her allocation of time.

But could we just use the next few minutes to go down the line and list what the priorities should be?

Mr. CATOE.

Mr. CATOE. Mr. Chairman, since I am next in order, I will go.

The first response and use of moneys will be to respond to the recommendations of the National Transportation Board regarding this accident. That is the first commitment this agency will make in spending its dollars. Any future recommendations concerning our system, we need to have moneys to respond to those.

In order of magnitude, the next response would be the replacement of the 1000-series cars. They are very old; they need to be re-

placed. And, as our chairman, Mr. Graham, has said, we have had the RFP and we are ready to go; all we need is the funding to do that.

Third, as I have mentioned many times, Metro has an urgent need of additional capital funds to maintain its infrastructure in a state of good repair. And that would be the third step.

So, first, safety from the requirements of this accident, any other safety needs, the replacement of the 1000-series cars, and continuous work on the aging infrastructure of the system.

Mr. ROGOFF. As far as priorities for our role in the FTA, I think our highest priority right now is to get a reform plan developed under Deputy Secretary Porcari and get that plan to Congress.

We have a number of concerns as we look at statutory authorities before us, the inspection resources that Mr. Madison and the other SSOs do not have, and the authorities that we do not have within the FTA to mandate adequate resources. And that is what we are doing, as it relates to developing reform plans.

As it relates to specifically the needs of WMATA, I think the most important thing is that we not prejudge the outcome of the investigation; that we keep our mind open in terms of what is the highest and most important capital need for those matching dollars that, at least as an interim step, seem to be coming forward from Congress.

Because railcars, while important, are really our last line of defense in an accident. The most important thing we always must be focused on is avoiding the accident and collision entirely, as Mr. Catoe has been very articulate about. You are not going to develop a railcar that is going to leave passengers harmless if they are colliding at 59 miles per hour.

So we really need to be focused on capital investments that avoid that incident and similar incidents, and develop a capital plan around those safety assessments.

Ms. NORTON [presiding]. Mr. Madison.

Mr. MADISON. Our first priority is to continue working with WMATA and the NTSB on the investigation and to implement the recommendations that come out of the final report.

Our next priority would be to work on improved legislation for the SSOs that give us greater authority to actually make some serious recommendations and to have those rules be taken seriously.

And I guess our last priority is increased funding that would also help with continued training for SSOs and also for staffing.

Ms. NORTON. Ms. Hersman, did you have a list of priorities?

Ms. HERSMAN. I would say the NTSB's first priority is to get to the bottom of what has happened in this accident investigation, and then we can make appropriate recommendations to WMATA and others who may need to be the recipients of those recommendations. We have already begun that, working with the others, issuing an urgent recommendation yesterday.

With respect to the priorities for WMATA, FTA, and others, it is very encouraging to hear their responses to the question about what their priorities are. I think we would say, from the Safety Board, our priorities would be for them to implement the safety recommendations that we have issued in the past. And what I

heard from many of the responses here was that was what they were going to be looking at doing.

We have now 11 open recommendations to WMATA, with the 1 we issued yesterday. And some of those are in open status; two of them are in an unacceptable status. We were very pleased with the quick response that we received from FTA and WMATA yesterday when we issued our recommendation, that they are beginning to work on it immediately.

So I think, going forward, we'd like to see implementation of our recommendations.

Thank you.

Ms. NORTON. Mr. Graham.

Mr. GRAHAM. Madam Chair, may I add something about the probable cause issue because we are extraordinarily concerned about this. We are very respectful of the NTSB's pronouncements and all of the work that they are doing, some of which is central, some of which is peripheral, but let me make some basic points here.

On June 17th, this signal device—let me call it a device, because it has various component parts—which has become the focus of suspicion about the probable cause of this accident, was replaced in the course of routine scheduled maintenance. There was no indication, to our knowledge, of any problem relating to the functioning of this device.

On June 22nd, of course we had this horrendous accident. And thereafter we went back, and we saw that, in a subsequent review of this device functioning, there was this fluttering, so that at one point it was signaling the presence of a train and at another point it wasn't, which was obviously a very substantial problem.

But what happened was we replaced the device. And this is a very important point, Madam Chair. We replaced the device. You would think that would remedy the issue, that with a new device there might be some technical or other problem with the old device, that we would have solved the problem insofar as this particular situation. In fact, Madam Chair, the new device that was replaced continued the same fluttering as the former device.

And so we are left—and I am making this point, Madam Chair, very intentionally. The Metro board and the Metro management have issued a statement on this. We are left with a very compelling mystery as to what is going on here. And we have to focus all of our energies in determining just what is wrong.

And let me say there is another significance to this, and the other significance is that, for those who are concerned about the slow movement of our trains and the fact that we are on manual operation, I think with this mystery outstanding it is very important that we do just that until we figure out what happened. This is a probable cause situation, we believe, where the answers and the solutions are not immediately apparent.

Thank you.

Ms. NORTON. Thank you very much, Mr. Graham.

Indeed, that segues into one of my questions. Mr. Catoe initially thought this was a "freak occurrence" with the flickering on the track circuit. You indicate, Mr. Graham, the flickering continues.

I believe that you are now testing on a daily basis, and I must ask you, was there any reason why more frequent testing was not done before?

Mr. CATOE. I can sit here today and look back and say, was the testing that we did on a monthly basis insufficient? You know, to go back in time and to make a conscious decision to look forward at the degree of testing, our testing for 30 years served us well. But something—

Ms. NORTON. Is this a new device of a kind you never used before?

Mr. CATOE. No, this is not a new device of the kind we have never used before.

Ms. NORTON. So you have been running this device all along, and, despite tests and changes, you have never seen the flickering before?

Mr. CATOE. I am not aware of flickering as a result of this device. And when I say "I am not aware," I have not personally found that in any of the records, of that occurring. The investigation is still under way, and I think we will continue to investigate and review our records to determine if that is the case.

But the question has been with change processes. In the urgent recommendation from the NTSB yesterday, they thought that was a good first step, but we are required to do more, and, as a result of that, we are going to be doing more.

Ms. NORTON. And I repeat, this hearing is not about assigning cause. We don't have the slightest idea. Nobody could possibly know. This hearing is being held because the public needs to know what you know now.

Mr. CATOE. Right.

Ms. NORTON. And we are very pleased that, as the information develops, you are making that information public and transparent.

Mr. CATOE. I would like to ask about the recent decision to put the 1000-series trains in the middle, with presumably more crash-worthy trains at either end.

First, did the union recommend that, as I believe the union has indicated? And has it been done elsewhere? We are stuck with 30 percent of your fleet this way.

Mr. CATOE. Let me answer the second part first because that is the easiest. I am not aware of it being done elsewhere. The cars are specifically placed based upon some decisions of crash-worthiness.

Ms. NORTON. Did it occur to no one at WMATA, given the fact that you were stuck with these trains because Congress had not come forward with money and there is no other way to raise it, that perhaps that would have been the better thing to do?

And, Ms. Hersman, did you ever recommend that?

Mr. CATOE. WMATA and myself were focused on making sure that crashes did not take place. As mentioned before, at 59 miles per hour, you might have vehicles that will not so-called "telescope" as much, but you are going to have severe damage. Our focus was keeping the system safe and to prevent accidents from occurring.

Ms. NORTON. Well, Ms. Hersman, you are the expert, or at least the Transportation Board is the national expert. You know these people cannot replace these cars. And you have done your duty

over and over again and said, "Replace those cars." That message needed to come here, and of course it wasn't heard in time.

Why did you not recommend what looks like a common-sense recommendation that doesn't require a bunch of experts: "Hey, at least don't make the crash occur in the front end or the back end?" And that is where crashes are first felt. "Take these 1000-series cars and don't line them all up like sitting ducks," the way they were on June 22nd. Why did you not recommend that?

Ms. HERSMAN. Ms. Norton, we recommended after the Shady Grove accident in 1996 that Metro look at all of their fleet, in consultation with some engineering experts, to determine what needed to be done to improve the crashworthiness of their entire fleet, whether it was retrofitting, making those cars more robust—

Ms. NORTON. But that is not my question, Ms. Hersman. These people are not the crash experts. And my question is very specific: Did it occur to anybody at NTSB what, I must tell you, was the first thing to occur to know-nothing me and, I suspect, to many people in the region? Because I was on washingtonpost.com for an hour right after the accident. And somebody wrote in, "Why didn't they just put one of the better cars at each end?" I said, "You have read my mind. I'll make sure I will ask that question of Mr. Catoe and the experts."

My question is very simple. You knew these people could not possibly replace the trains. Over and over again, you said, "Do the impossible." Absent any way for them to possibly replace 30 percent of their fleet—you didn't recommend that they take them out of service—why did the Transportation Board not at least recommend this rather, low-tech, low-cost step? I mean, was there a technical reason why? Is it just so in-your-face that even the experts didn't see it?

Ms. HERSMAN. Well, I think the challenge here is, because there are no standards and there is not crash testing done, that we don't have the engineering data to necessarily support the placement—

Ms. NORTON. Well, in that case, should they do this or not, Ms. Hersman? We don't know anything, according to the prior testimony, about crashworthy standards, thanks to the Federal Government and Mr. Rogoff's agency particularly because we have disallowed you.

So I am asking, is what they did the right thing to do? Or now, in hindsight, would you say that doesn't make a lot of difference?

Ms. HERSMAN. I think the Safety Board has not taken a position on whether or not putting the cars in the center was the right thing to do. We did ask them to look at the evaluation of these cars in a scientific way—

Ms. NORTON. I must tell you, Ms. Hersman, that falls short. Even if we give Mr. Rogoff the kind of perhaps authority he ought to have, I can tell you without fear of contradiction—leave aside the recession we are in, let's suppose we are in the false boom economy we just came out of—that there is no transit system in the United States that isn't operating with old cars and cannot replace them quickly.

Therefore, in this hearing, we are really looking for answers. It is real easy to say, "Spend a billion dollars, and you will be safe," but I have to ask you whether you are prepared, at least in the fu-

ture, to look at interim possibilities when the only answer the NTSB has been able to come up with since 2004 is “spend some money.”

The public needs to know, short of spending money, do the experts have a response that can increase our feeling of safety when we get aboard the Red Line that we have no alternative but to board?

Could you consider that, in the event your recommendation costs a lot of money, and given what you know about resources, would you consider offering recommendations short of spending the money that could increase safety?

Ms. HERSMAN. Ms. Norton, it is completely up to the recipients who are the experts in their——

Ms. NORTON. It was up to the recipients——

Ms. HERSMAN [continuing]. To respond to us——

Ms. NORTON. Ms. Hersman, I am not going to let you get away with that.

Ms. HERSMAN [continuing]. To respond to us with alternative——

Ms. NORTON. No. That is just not fair. It was up to the recipients to buy new cars. You had no hesitation two or three times telling them, when they rolled back, when they rolled forward, to change the cars. That, you didn’t mince your words on.

We are dealing with millions of people who get on these trains, including people who visit the city. We are trying to learn whether or not there is anybody interested in doing what seemed to us to be minimally necessary.

If you do not have the money, what do the experts have to say to the system about interim steps? I think that is a fair question, and you either are prepared to look into that or not.

And I want to know if you are prepared to look into interim steps, such as Mr. Catoe has now taken, such as the union apparently advised, neither of which is presumed to have the background and expertise you do. Are you prepared to consider interim steps when the funds are not available to do what you think is the best thing to do, yes or no?

Ms. HERSMAN. Yes. And we often consider interim steps.

Ms. NORTON. That is all I need to know. We are not trying to second-guess anyone. We are trying to be forehanded. We are really not blaming anyone for anything. We think that this accident was so unforeseeable that our only duty here is to say, what little things can we do to make sure this doesn’t happen again?

Frankly, I think that the victims and the public is entitled to hear any interim step we can take, however minor, besides saying “spend a gazillion dollars,” which everybody knows WMATA doesn’t have, and, Ms. Hersman, we don’t have it either.

I have to ask you, Mr. Rogoff, the region met House and Senate Members, and the first thing we thought of was, goodness, where are the Feds, or you, more specifically. And you say in your testimony that the FTA is prevented by law from establishing safety standards, requiring inspections of the kind that are required on other common carriers, etc.

What Federal law prohibits you from acting?

Mr. ROGOFF. That specifically——

Ms. NORTON. What Federal law prevents you from acting? And do you believe that there is at least a minimum obligation on the part of Federal authorities to adopt minimum standards that perhaps States and cities can go beyond, but minimum standards, so that Ms. Hersman knows, minimally, what is required, so that the operators know? Would that not be a reasonable thing for the Congress to do?

Mr. ROGOFF. Well, we certainly think so.

I want to answer both parts of your question.

The language that has been both litigated and found by the courts to be most limiting to us is Section 5334(B)(i) of Title 49. And I am just going to read it, because it is short enough. "Except for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate the operation routes or schedules of public transportation systems."

Ms. NORTON. What is the date on that, please?

Mr. ROGOFF. This has been in law, really, from the beginning of the Urban Mass Transportation Act, going back a great many years.

Ms. NORTON. What was the reason, do you believe, we prohibited ourselves from providing for the safety of the public and rapid transit the way we do in other common carriers?

Mr. ROGOFF. I think it is twofold, Mrs. Norton.

One, from the birthing of these agencies, going back to the birthing of DOT in 1966, UMTA grew up as part of the Urban Renewal and Urban Redevelopment Agenda in the Johnson administration. And it was thought to be a grantmaking agency and persisted as a grantmaking agency—

Ms. NORTON. So should some other Federal agency have been charged as more and more cities and States developed mass transit systems?

Mr. ROGOFF. Well, you know, what has developed is somewhat of a hodgepodge system where we do have commuter rail operations under the Federal Railroad Administration, with hundreds of Federal inspectors across the country.

Ms. NORTON. So the problem was the transit systems weren't under the usual regulatory agency, the Federal Railroad Administration?

Mr. ROGOFF. Well, those that are said to be off the National Railroad System, which is to say they are in a closed system. So you even have some operators that run both closed systems, like the MTA in New York runs the New York City Subway. They also run the Long Island Railroad in Metro North. Long Island Railroad and Metro North are inspected by the FRA; the subway is not.

Ms. NORTON. So typically, there must be dozens of subway systems across the Nation that are by the seat of their own pants.

Mr. ROGOFF. Well, 48 systems, to be exact, in about 28 States. And to the extent that they are regulated, they are regulated by these State organizations, such as Mr. Madison speaks. And as you heard me and Mr. Madison say, Mr. Madison is concerned that they don't have enough authority in their legal statute, and we don't have the ability even to set minimum standards for them. We can set minimum program requirements, but that gets into the issue of available funding.

I mean, one of the great concerns that we are looking at as part of our process as we look at this, is the scant funding and the scant staffing of those organizations.

Now, I would like to use that just for a second to segue into an issue that Mr. Mica raised, because it is a source of considerable confusion and concern. Mr. Mica is asking the question, "Well, FTA, why don't you let your grantees use their Federal money to provide grants to the SSOs, the State safety organizations?"

Our simple and first answer to that is that it is a conflict of interest that we don't think should abide. We do not believe that we would ever want to have a situation where the grantee is using their funds, whether it is through a Federal grant or other grants, to pay for the operating costs of their regulators.

Ms. NORTON. Now, that parallels the Federal Railroad Administration—

Mr. ROGOFF. Exactly. In fact, there used to be rail safety user fees that went into a fund, and those fees were repealed by the Congress because they did not want the users to be paying the operating costs of their regulators and inspectors.

You know, we just had a Southwest flight land with a hole in it about the size of a football, about 12 by 18, last night. It lost compression. The FAA has dozens of inspectors that inspect nothing but Southwest Airlines aircraft. We would never want Southwest Airlines to be paying the salaries of those inspectors. And I don't think we should necessarily—

Ms. NORTON. So you don't think you are the people who ought to be regulating?

Mr. ROGOFF. What I am saying is we are not comfortable having our grantees use their moneys to pay for their inspectors. We think they should be paid for adequately, robustly, but by someone else.

Ms. NORTON. Again, as the money was in our court, I think this issue is in our court. I needed your testimony on the record, however, because if we want to really do something besides put up the money in the future, considering that what happened here could happen in 48 systems, we have an obligation now, now that we know from this experience here.

Mr. Madison, my staff was charged with researching issues about this crash, and they inform me that they couldn't even find a Web site for your agency, the Tri-State Oversight Committee that has the jurisdiction that I understand how minimal it is—Mr. Rogoff does not have.

Why is there such a lack even of public information letting the public know what it is you do?

Mr. MADISON. The Tri-State Oversight Committee is formed up of members from each of the three jurisdictions. In relation to the question about the Web site, we have had some discussion about that because we are not really sure who would maintain the Web site and what information we would have on there.

Ms. NORTON. Well, I mean, you would maintain it. Do you have any staff?

Mr. MADISON. No, I mean, our staff. If it would be—

Ms. NORTON. How many staff do you have?

Mr. MADISON. We currently have eight staff members.

Ms. NORTON. Well, couldn't you just say, "You will maintain the Web site?"

Mr. MADISON. But the staff are in three different jurisdictions, and we work out of different agencies.

Ms. NORTON. I see. "All right, you, D.C., will do it this year. You, Virginia, will do it next year." I mean, why is that so difficult to just have a Web site at least so people can understand what, I will confess, I did not even know existed? I didn't know we had a regional safety organization.

Mr. MADISON. Well, we weren't sure if it was difficult or not. It was something that we hadn't considered.

Ms. NORTON. Well, would you consider putting up a Web site and assigning each jurisdiction around a duty with respect to that? I understand you are sparsely funded.

That guess back to the jurisdictions, Mr. Graham. I mean, I know what you have had to go through just to get the funds that are necessary in order for us to release the funds. So I won't say how come you haven't been pouring money on this board, particularly since I can't believe people seek to find out that there has any such board, as it is, particularly well-funded. Given the lack of oversight from the transportation administration, I am sure that people decide to put their money elsewhere.

Do you have regulations, Mr. Madison? Are they codified anywhere?

Mr. MADISON. Yes.

Ms. NORTON. What power do you have, if you are the only agency that can look at safety?

Mr. MADISON. Yes, in Part 659, there is a stipulation that the State safety oversight agency has to develop what is called a program standards and procedures. The Tri-State Oversight Committee does have a document called the "Program Standard and Procedures."

Ms. NORTON. Is that an enforceable document?

Mr. MADISON. No. Really what it is is it's a document that lays out how the TOC is executed, but also—

Ms. NORTON. So you don't have any enforcement authority, is that right? You can't tell them to do anything.

Mr. MADISON. No, ma'am.

Ms. NORTON. Well, I can understand your frustration, but apparently, you recommended that the FTA withhold 5 percent of Federal grants when WMATA was noncompliant, although you know full well that WMATA didn't have any way to get the money.

Wasn't that counterproductive, to say, "OK, take away their money," when they don't have any money? Wouldn't it be better to make some other kind of recommendation?

Mr. MADISON. Actually, the TOC hasn't made a recommendation to withhold funding to WMATA, because we understand that—

Ms. NORTON. You can do that, is that—

Mr. MADISON. Yeah, we can do that.

Ms. NORTON. OK. And you have not done that?

Mr. MADISON. No, we have not.

Ms. NORTON. Because you recognize that if that is all they are giving you, they are not giving you any tools. If all they can give you is to recommend that Federal funds be withheld, they haven't

given you anything to work with. I understand that. Nor can the local agencies.

So, as a practical matter, the reason I haven't much heard and the public hasn't much heard of your board is not that you don't desire to do regulation, but you don't have any authority to do any regulation, to maintain the safety of the system, or to enforce it, do you?

Mr. MADISON. No, we do not.

Ms. NORTON. I have to ask Mr. Catoe to comment on what we have read, indeed, what we have heard here in the Congress, unrelated to this accident, about lease-backs.

Now, first let me say that, particularly because this hearing isn't about "why didn't you do what you should have done," but about trying to explain why some things which may seem strange perhaps aren't, or certainly to give you the opportunity to explain them. Therefore, I preface this question by saying, you have been operating with no way to do capital costs, and the only system with no dedicated funding.

So somebody, some smart financial person did what has been done all over the country; it may, indeed, have gotten us in this fix. We have been working with you to say take advantage of the fact that if you go to the banks to own the cars, they will have an incentive to buy the cars. Because, unlike you, Mr. Catoe, you will explain why, they can depreciate cars as they age because they can take the customary loss and write off taxes.

So the notion occurs that the longer you keep the cars, from the point of view of banks, the better for them. And this arrangement apparently goes until 2014. And we are informed that if somehow these cars are retired before 2014, it's a straight-out money deal, it's not a safety deal, but a desperate transit authority with no way to get the money.

But, correct me if I am wrong on this, that if you retire these cars before 2014, that the system would have to pay a \$250 million penalty.

Now, we have a 2006 letter after the NTSB recommendation that Metro replace these cars, where you say WMATA is constrained by tax advantage leases which require that WMATA keep the 1000-series cars in service at least until 2014.

Were these cars in service for tax reasons because you were constrained by the way in which you had to finance the new cars, or, for that matter, what cars you had bought?

Mr. CATOE. Well, let me go a little bit into the discussion. In the late 1980's, early 1990's, transit agencies, as well as other municipalities such as water districts, were able to basically sell their equipment, like rail cars, and receive a sum of moneys for doing that. They took some of the moneys and invested those dollars into their systems. A portion of the moneys they set aside to make payments, those lease payments back over the number of years that agreement was in place. That was an agreement that at the time was considered legal, and it was encouraged in certain corridors. Since that time, that type of arrangement has been determined to not be legal.

Ms. NORTON [presiding]. Yes. I want that on the record.

At the time that you would have engaged in this, there was no indication from the IRS or Federal authorities that this should not be done?

Mr. CATOE. No. There was no indication.

Ms. NORTON. Indeed, the financial incentive was, in fact, to do this.

Mr. CATOE. It was a financial incentive for transit agencies and, again, other municipal operations, not just transit, to be able to do that.

But to get to your question—and there is many pieces to that—of the 2006 letter in response to the NTSB recommendations on the replacement of rail cars, while 2014 was the coverage date under the agreement that we had with various banks on the 1000-series cars, the agreement did allow substitutions. For an example, if we decided to replace the 1000-series cars, we could use a newer car to substitute for the time period remaining under that agreement. So the letter sent in 2006 had an error in it. It was an interpretation.

Ms. NORTON. So you weren't constrained, though, from replacing the cars. You would not suffer a \$250 million penalty?

Mr. CATOE. So long as we have a substitution, no.

Ms. NORTON. Do you have a substitution?

Mr. CATOE. Yes, we have a substitution.

So even though that is what the letter said at the time, since that period of time, WMATA has been in the process of replacing those vehicles, of identifying funding sources as well as developing the specifications for a new series of rail vehicles, which several months ago we did put out the bid, and we have received new bids on those vehicles. If we could replace those cars today, I would replace them and substitute another car until the agreement of 2014 has arrived.

So, yes, we could; we could substitute other vehicles.

Mr. ROGOFF. Ms. Norton, I just think it's important to point out, for people who may not be familiar with these transactions, this is not a transaction that's unique to WMATA. We've got railcar operators across the country that during the same period that WMATA entered into these transactions did the same thing in order to leverage some additional dollars out of their rolling stock. I just want to clarify that, lest anyone think that this is a Washington Metro unique arrangement.

Ms. NORTON. Indeed. Thank you, Mr. Rogoff. In fact, we are aware that when WMATA came here, along with virtually every other transit system that was involved—which is every big transit system—to get some kind of relief from having to pay essentially penalties by having the loan called so quickly. Is that still a problem?

Mr. CATOE. Well, yes. Again, let me go back with what happened. These agreements had to be insured by an insurance company. It just so happened that the majority of the agreements that we had were insured by AIG.

Ms. NORTON. Just your luck, Mr. Catoe.

Mr. CATOE. Yes. It was the perfect storm, so to speak.

When their rating dropped, we were in technical default because the agreement specified that the insurers had to have a certain rat-

ing. Well, AIG was not the only one whose ratings dropped. Every other insurance company in the world, during these bad economic times, had their ratings dropped. So we and every other transit agency, as well as municipalities and water districts, were in technical default of our agreements.

Given that the banks could no longer write off a loss because of an interpretation by the Internal Revenue Service that this transaction was not legal, they came after the various agencies demanding payment, even though we had made every lease payment required over the years.

Ms. NORTON. No missed payments?

Mr. CATOE. No missed payments whatsoever. Transit agencies in other municipalities were in danger of losing hundreds of millions, if not several billions of dollars in taxpayer moneys. We came to Congress, and we also went to Federal court to block the effort of that bank to do so. We were successful to a certain degree in Federal court, and Congress has also been very supportive.

We're in the process now, and we have unwind several of these agreements, and we have unwind those agreements for the moneys that were set aside for the payments, so no additional cost to the taxpayers. However, there are still multiple agreements here in WMATA as well as across the United States that have not been unwound. And there is congressional action pending to deal with those issues.

Ms. NORTON. Thank you. I'm very sorry you had to go to court on this one. It was a terrible situation.

Mr. Chaffetz is back, and I am pleased to ask him if he has any questions. He's back in time to ask questions of this panel.

Mr. CHAFFETZ. Thank you. My apologies for being away during the votes. I appreciate your indulgence and your understanding of my apologies if I'm hitting something that had been addressed while we were away.

Mr. Catoe, there was a quote in there, a Metro statement that said "will devote all of our resources" to developing additional protections. Can you give me some reassurances to "will devote all of our resources" and what that means, specifically?

Mr. CATOE. Well, WMATA has limited capital resources, obviously. Our capital dollars are from Federal 5307 funds, the local jurisdictions' commit funds, and we have a capital budget. There are dollars that we have identified for various programs we plan on doing this year during the budget year. My comment was that if there is a recommendation that identifies a capital project or need within the agency to ensure the safety of our system for our customers and our employees, I will reprogram those dollars—or recommend to the board and move to reprogram those dollars to fund that program.

Mr. CHAFFETZ. So as you get the first tranche of dollars, where do you anticipate spending that first set of dollars? If you had to prioritize maybe one, two, or even three, what's at the top of your list?

Mr. CATOE. Safety and—

Mr. CHAFFETZ. Can you be more specific than that?

Mr. CATOE. Implementing the recommendations outlined by the National Transportation Safety Board. That's No. 1.

Mr. CHAFFETZ. Now, my understanding from Ms. Hersman—and correct me if I’m wrong from what I heard—there have been 76 recommendations along the way. How many of those have or have not been implemented, not just from this incident, but from past incidents?

Mr. CATOE. If I recall, this is off the top of my mind.

Mr. CHAFFETZ. Sure.

Mr. CATOE. There are eight recommendations that have not been implemented, two from an investigation from 1996, and I believe six from a report in 2006. My numbers might be slightly off, but I believe there’s 8 out of the 70-some-odd recommendations.

Mr. CHAFFETZ. Ms. Hersman, is that your understanding?

Ms. HERSMAN. Over the 7 investigations, we’ve issued 76—and actually with our work yesterday, 77. And of those, there are only 10 that remain in an open status now. Eight of them Metro is continuing to work to address the concerns that we’ve raised; they address operating issues, track issues, equipment issues. Two of them are classified in an unacceptable status, and they deal with specific issues—

Mr. CHAFFETZ. I’m sorry to interrupt you with our limited time, but just for the clarification of staff and myself and whatnot, can we get some sort of summary as to which ones have not been implemented and maybe some degree of justification as to why they were not?

Let me move on in the interest of time here. I know time is short.

Mr. Catoe, would you encourage riders to record and report negligent behavior? I mean, we’ve had a couple of those reports in the last couple of weeks. What would you say to riders? Would you encourage that, not encourage that? What should they do or not do?

Mr. CATOE. I have encouraged that since the day I walked in the door. I would encourage any of our employees or customers who see an operation that they felt is unsafe or that would hinder the operation of this organization, to report that.

Mr. CHAFFETZ. And how would you assess the morale, and what are we going to do to help those that are working hard and diligent, and do a good job? Obviously the morale maybe suffers. How would you assess that, and what can we do?

Mr. CATOE. Well, any time you have an event in an organization such as occurred on June 22nd, the morale is low, but I can share with you also that employees that I have had a discussion with concerning the videos that most of us have seen on TV or YouTube are angry, angry at those workers because the overwhelming majority of our employees do an outstanding job of providing customer service. All it takes is one or two or three to ruin the image and the reputation of the entire agency.

So morale, of course, is impacted by what occurred, but also, there is an anger of those individuals—those few individuals who obviously are not following our safety procedures and policies.

Mr. CHAFFETZ. And finally, let me just ask you, one of the general concerns is the idea of implementing best practices. To the degree in which you are communicating with counterparts and others to implement those best practices and understand what’s working and not working, but could you maybe address that and what

you're doing and not doing in that regard and how we can perhaps improve that?

Mr. CATOE. If I understand, the general question was the implementation of best practices, and we do. We have a safety officer that looks at best safety practices. Our operations staff look at best operations practice as defined by the industry.

Mr. CHAFFETZ. How would you grade yourself on that?

Mr. CATOE. I grade ourselves high. I have not thought about an A or a B in that regard. But again, I want to clarify the definition of best practices. One organization might say their practices are best; I might not agree, and therefore I will not implement those. But it is the best practices that have been certified through a process. We all move forward and we work toward implementing all of those if they apply to our type of operation.

Mr. CHAFFETZ. Thank you.

Thank you, Mr. Chairman.

Mr. LYNCH [presiding]. I thank the gentleman.

I want to thank Ms. Holmes Norton for pinch-hitting for me again. I understand that the Rules Committee is still meeting, so that means Mr. Van Hollen and Mr. Connolly are both in the Rules Committee.

However, I wanted to followup on one question. On the 17th, when the bond in the circuit that was malfunctioning was replaced, what was done right after that, Mr. Catoe, in terms of making sure that it was functioning properly? Is there a testing protocol that has to be implemented? Because it seemed to be at the heart of the problem.

Mr. CATOE. Yes. The replacement was done on this circuit on June 17th, and at that time it was tested to ensure that it was working properly. Our records indicate that it was working properly at that time; the records I have seen.

Again, monthly, we were running this test to determine whether or not there were problems with any of the circuits in the system. Postaccident, we did run that test, and it demonstrated that this particular circuit was fluttering over a period of time up to the accident itself and postaccident.

Mr. LYNCH. Yeah, I'm just wondering what happened immediately after you repaired the system on the 17th. I know you say your systems indicate that it was acting properly. What do you do to determine that? Do you run a bunch of test trains? Or tell me about that.

Mr. CATOE. No. We do not run a bunch of test trains to determine if that particular circuit is running because we have 3,000 circuits in the system, and we were going through a program to replace all of those circuits.

The individual circuit is tested. And again, monthly we test the whole system. So we were in the process of not just replacing that circuit but other circuits on that line. And we did a site test on the circuit to make sure it was receiving the signals and connected properly.

Mr. LYNCH. And where is that operating from? Is that a manual test at the junction, or is it back in the operations room?

Mr. CATOE. I believe it's a manual test at the site, but I am turning around to look at my rail expert to be sure.

I was correct, it is a manual field test onsite.

Mr. LYNCH. Maybe, Ms. Hersman, you can talk about this as well: the more reliant we become on technology, I think the more important it is that we make sure that the technology is operating, because in this instance there was little indication of a malfunctioning circuit that had very grave circumstances for a lot of people. And this technology, we're becoming more reliant on it, and there are no fallback or fail-safe measures by which we can determine whether these things are still operating. You've got trains loaded with people, operating at high speeds, and we can't have this level of malfunctioning going on. We just have to be more vigilant about testing these safety systems to make sure they're working. We see the consequences of this today.

But in retrospect, I'm probably a little surprised we don't have these things more often. I think we just take a lot for granted. And if we're going to rely on these systems to replace operator ability to override the system when it becomes necessary, then we have to make sure these systems work.

Ms. Hersman, are you seeing a lot more of this in other systems as well? And does the NTSB have recommendations regarding the routine or the regular scheduling of these inspections?

Ms. HERSMAN. I think the question you're asking has a lot of answers to it, and so one of the things that I want to make sure that we cover is, as Chairman Graham talked about, what happened after we identified that there were some problems. We've been changing out components. That particular impedance bond that was replaced, we looked at it with a shunt on the track, we looked at it with an exemplar train on the track, we replaced it with a brand new impedance bond, we replaced it with the old impedance bond that was in before. There are still intermittent failures; sometimes it's working, sometimes it's not, even with those changes. We've walked back the cable to see if there might be some cabling issues. There are a lot of challenges here, and we are changing out some components to identify what the problem is. That's why the work is still ongoing.

But with respect to the redundancy, I think that's what you're raising, a vital system that everyone is relying on to perform; that's what our recommendation yesterday was about is to have a monitoring system so that you know when something fails. You've got to get an alert when something fails. If people are relying on that system to be vital, and 100 percent of the time it's got to be accurate, you've got to know when there's a malfunction or a loss of detection. They can do that now by looking back at their data.

What we want is for there to be a realtime notification when that happens that there's an alert. So we've seen this on the pipeline side or on the aviation side. So, for example, if you're monitoring a pipeline, and you see a loss of pressure, the person who's monitoring that pipeline gives an immediate alert that is aggressive, and it grabs their attention so they can start shutting that pipeline down if they're having a leak.

Air traffic control. If they have aircraft that are coming too close to the ground, they get a low altitude or alert on their scope. Those air traffic controllers are compelled then to tell the pilot, "you need to pull up, you're getting low, there's terrain there."

What we want to make sure is that when the system itself isn't functioning the way it was intended, that there's some way to get notification about that so you can intervene.

Mr. ROGOFF. Mr. Lynch, can I just speak to one element about it? It doesn't have to do with the specific elements of the technology here, but it's really a more macro observation.

Earlier, Mr. Davis talked about and identified \$6 billion in deferred maintenance on the WMATA system. Nationally we just completed a study for just the seven largest rail transit operators, including the T in Boston, which indicates we have a \$50 billion deferred maintenance backlog. That's just the seven largest systems. We're updating that study to even incorporate a larger universe of systems.

But this is really a more macro issue for reauthorization because one of the things obviously we see in these studies, Metrorail is a comparatively young system, but the Red Line is the oldest segment. It's 33 years old. Even the newer systems are starting to age. And it makes the need to face the deferred maintenance issue sort of head on, because, as we can say generically, not in the context of this particular accident or any other one, but deferred maintenance issues, if deferred long enough, become safety issues. And that's an issue that the administration and the Congress is going to have to take on more broadly.

Mr. LYNCH. Thank you.

I'm sure we didn't exhaust the full menu of questions to all of you today, but if there are some issues that you wish to amplify or hit on that members of the panel here have not asked, I would like to hear those. And, as I have said with the earlier panel, there are other Members here: Mr. Connolly, Mr. Van Hollen, Mr. Cummings, as well as Mr. Bilbray and Mr. Issa may want to submit some questions in writing, and so we would ask that you diligently respond to those questions, if possible.

But I'd like to give you at least a couple of minutes each in closing to hit on the areas that you think are the most important going forward for the system to operate in a reliable and safe manner the way we all would like it to.

Mr. Graham, you are recognized for 2 minutes.

Mr. GRAHAM. Well, I would say just very briefly, Mr. Chairman, that we need to have the probable cause of this accident identified, and we need to have a preliminary report from the NTSB. If it doesn't pinpoint the precise cause of the accident, it should at least describe the challenges we're facing because our experience, Mr. Chairman, is that there's a great deal of half information, misinformation, misleading information which is in circulation at the present time. This is why I took Delegate Norton's time a little bit to try and focus the issue because if we could just get the public to understand what it is that we're wrestling with at this point, I think that would go a long way in reassuring the public that we want that manual operation, we want 35-mile-an-hour speed limits on the Red Line, and it would also better focus the decision of what we're dealing with.

Thank you.

Mr. LYNCH. Thank you.

Mr. Catoe.

Mr. CATOE. Thank you, Mr. Chairman.

I believe many of the speakers today really, from a broad perspective, talked about the issues. As we look at public transportation now and into the future, there must be a balance of system expansion but with that expansion, an assurance that moneys are there to maintain the system.

When we look at all capital programs, we can't just look on the side of what are we going to get new, and what type of celebration are we going to have because of a new line? But we must also plan for the maintenance of that line for the next decades into the future. This is a discussion that's going on within the industry today, the state of good repair of the organizations and the systems, and it is something that we must focus on.

And finally, in talking about the aspect of oversight, oversight sometimes might be difficult because it takes time. But if oversight is focused on the safety of a system to ensure the safety of our customers, then I welcome that, and also to provide the necessary authority on the part of the agencies that have that responsibility to take action.

Mr. LYNCH. All right.

Ms. Hersman.

Ms. HERSMAN. I've heard many of the concerns that were raised here today by Congresswoman Norton and Chairman Graham. I will definitely take those back and take them to heart.

We make many recommendations based on what we think is best. We don't have to consider cost-benefit analysis when we make our recommendations. And today we held a board meeting to determine the probable cause of an accident that occurred up on the Green Line in Newton, Massachusetts. We had an operator that was killed up there last year. We made a recommendation in that board meeting this morning for the Federal Transit Administration and for NBTA to look at putting positive train control on that line. We understand that's a cost constraint for them. The Green Line is the only line that doesn't have a form of positive train control on it. We know it's their oldest line up there, too, and that will be a significant cost to them, but we do believe that's what's needed to save lives.

So we do make recommendations, Ms. Norton, and we don't have to pay for them. And so I do recognize the frustration, but our charge is not to do that part of it; our charge is to recommend what we think is in the best interests for the safety community. We are the conscience and the compass of the transportation industry, and they get to decide if or how they implement it.

With respect to Chairman Graham's concerns, we do have a number of rail investigations that are pending, about 16. We will work very hard to get the cause of this determined. We have another NBTA accident. I was up on Mother's Day for another Green Line accident, and so we have many in the queue. But even if we don't complete a final report on the Metro accident, we will do as we did yesterday. When we identify safety issues that are acute in nature, we will issue recommendations to address whatever improvements we think need to take place.

And so we recognize everyone would like us to determine the probable cause of the accident yesterday. We will work to do it as

quickly as we can, but in the meantime, we will put out recommendations to address the issues we think we need to look at.

Mr. LYNCH. Thank you.

Mr. Rogoff.

Mr. ROGOFF. Thank you, Mr. Chairman.

I will certainly echo what Mr. Catoe said about the state of good repair. Ironically enough, both the FTA and WMATA had a scheduled roundtable for the whole Nation for transit operators on the state of good repair, which was planned several months before the accident, and we hosted it together just last week.

I'm glad Member Hersman raised the issue of the Back Bay recommendation, because it's very telling on this whole issue about whether we need to reform the legal authorities as it relates to safety enforcement.

The Board's recommendations to the FTA is to facilitate the installation of positive train control. The reason why it says "facilitate" is because we are not allowed, by law, to mandate it. At the very same time, the Federal Railroad Administration is moving a regulation to mandate positive train control on the rail operators on the systems that they inspect and they have a legal authority over. So, it really brings to a head the legal issues we're raising here.

Now, we talked a lot here about the FTA model versus the FRA model. And I want to emphasize that there are other models out there that may be appropriate for a reformed Federal Transit Administration. Within the Federal Motor Carrier System, the Motor Carrier Safety Administration, within pipeline safety, we provide Federal funds to State enforcement agents so they will be adequately resourced to not only enforce State regulation, but also Federal regulation.

So we recognize the need to take a hard and fresh look at these legal authorities, but we don't want to just run out and say, we need to Federalize this right away. We will be back to Congress in a few weeks with a reform plan that tries to capture the best model for this particular industry that works with our State partners as best we can.

Thank you.

Mr. LYNCH. Thank you, Mr. Rogoff.

Mr. Madison.

Mr. MADISON. Thank you, Mr. Chairman.

I would just reiterate from the SSO standpoint the need for funding and legislation that actually gives the SSO some authority.

There are currently 27 SSOs throughout the country. I've met most of them, and they're really good people. We don't want to imply by anything that has been said today that the lack of authority means that there is a lack of effort on the part of the people who work in the SSOs. They work very hard with the resources that they have, and we try to make our systems as safe as possible.

Mr. LYNCH. Thank you. I want to thank you for your willingness to come before this committee and offer your testimony to help us.

Just in closing, we all have a special responsibility here. Running a public transit authority is a very serious responsibility. We had nine people who went out to work one evening, like we all do every day, got on the Metro, and put their trust in the system, probably

not giving it a second thought because of the level of trust that was built up in that system over the years. Because of failure in the system, members of the public were killed. Those families are dealing with those consequences, and there were dozens of riders that were hurt that day and still have not recovered. Those are very serious consequences when we don't run a system as well as we should.

And so I think that everyone's heart and mind is in the right place on this, but it is a serious business. Hopefully, with the injection of resources brought in by Ms. Norton, by Mr. Connolly, Mr. Van Hollen, Mr. Hoyer, Mr. Cummings, and others, some of those needs will be met. But it will require our diligence to make sure that money is spent properly and that our priorities are what they should be.

And we thank you all for the role in this that you play in making it safer for the riding public. We will just continue to work with you as we move forward and try to improve the system for everyone.

Thank you very much. I appreciate your testimony today. And we bid you good day.

[Whereupon, at 5:35 p.m., the subcommittee was adjourned.]

[The prepared statements of Hon. Jason Chaffetz, Hon. Eleanor Holmes Norton, and Hon. Gerald E. Connolly, and additional information submitted for the hearing record follow:]

Statement of Rep. Jason Chaffetz, Ranking Member
Subcommittee on Federal Workforce, Postal Service,
and the District of Columbia
Committee on Oversight and Government Reform
Oversight Hearing: "Back on Track: WMATA Red Line Accident and
Continual Funding Challenges."
July 14, 2009, 2:00 p.m., Room 2154

Thank you, Chairman Lynch, for holding this hearing.

On April 29 we held an oversight hearing on the Washington Metropolitan Area Transit Authority. At that hearing we examined Metro's financial condition and internal controls, along with safety and security issues.

On June 22 a tragic accident, the most serious in Metro's history, occurred on the Red Line. One train crashed into the back of another, killing 9 and injuring 80. In addition to the dead and injured, damage to the morale of Metro's riders, and to Metro's reputation, is ongoing. A recent Washington Post editorial commented on the crash as having "shattered many riders' assumptions about the safety of the system".

Today's oversight hearing will examine that accident and the continuing challenges faced by Metro.

Metro appears to be in the throes of an epic crisis. As a Member of Congress and as a Metro user, I am very concerned.

Even before the catastrophe of June 22, a Washington Post story described comments from Metro riders as revealing "a band of beaten down and frustrated people who, despite their close kinship with Metro, have had about enough."

In the wake of the June 22 crash a more recent story reflected growing concerns about excessively cramped conditions, excruciatingly long commutes, jerky rides, abrupt stops, and passengers waiting for more than three full trains to pass before boarding. There is also evidence of nerves rubbed raw, with some reports of yelling and shoving.

While investigations are continuing, there are deeply disturbing reports of track circuit problems which should have been anticipated, and which have been dealt with in other systems, notably the Bay Area Rapid Transit System in San Francisco. Metro apparently never installed a backup system that is used by BART.

A significant segment of the Federal workforce relies on Metro, plus millions of visitors each year. We are also quite aware of the enhanced security issues which apply to Metro because it services the Washington Region.

The last Congress approved a measure sponsored by the former Chairman of our Committee, Tom Davis, who I am pleased to see is one of our witnesses today. That law authorizes much needed funds and mandates management assistance. But follow-through by the Administration and this Congress is required to make that law a reality.

I welcome all the witnesses at today's hearing, and look forward to their testimony.

STATEMENT OF
THE HONORABLE ELEANOR HOLMES NORTON
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
JULY 14, 2009

I want once again to thank Chairman Stephen Lynch for his consistent attention to the safety and the operations of the Washington Metropolitan Area Transit Authority system by responding to my request early in his tenure as chair with a hearing he called on April 24th and again today granting my request for this hearing in light of the June 22nd Metro tragedy. Before requesting today's hearing, I took the precaution of speaking with the appropriate Metro and National Transportation Safety Board (NTSB) officials concerning a hearing before the investigation is complete and learned that it is not unusual to be asked to testify before an investigation is fully completed. The investigation of this collision may require in excess of a year.

Following our hearing in April, we had every reason to believe that the Metro system was a safe system, and because of the consistent oversight of this subcommittee, I continue to believe that the system that serves this region and millions of visitors is safe. I would not hesitate to board a Metro train even after the tragedy of June 22nd. However, the public is not fully aware of what this subcommittee has learned during years of consistent oversight about the overall safety of the system, and in any case, the public deserves to know much more following the recent catastrophe. It is fair for riders to seek reassurance now, or to know whether there is reason to be concerned about the daily trip on a Metro train. The public has bits and pieces of information about what may have caused the accident and about what is being done now to assure its safety. Today's hearing will make public all that is known now as Congress opens its own investigation and will allow the public to separate urban legend from authoritative facts and eye witness testimony.

Long before the June 22nd accident, the regional congressional delegation had been working to secure funds for Metro for capital costs, such as replacement of Metro cars burdened by increasing numbers of federal and congressional employees subsidized by the federal government to take Metro, who form the majority of Metro's week day employees. Today, the region is particularly grateful to chairman John Olver and the House Transportation/HUD Appropriations subcommittee for finding funds in his appropriation for the first \$150 million installment of the \$1.5 billion Congress has authorized over a 10-year period. Regrettably, despite our efforts, the funding was not authorized until 2008 after control of congress changed, but we particularly appreciate the efforts of the former chair of the full committee, Tom Davis, who started us down the road to today's funding and will testify today. The necessary funds were not included in the President's budget, despite urging from the delegation, but Chairman Oliver

nevertheless found the funds to meet this year's commitment. I know that millions of visitors, public and private employees and residents are deeply grateful.

I have just come from managing a floor resolution recognizing those who were injured and remembering the residents we lost to this tragedy --- seven from the District of Columbia, one from Maryland and another from Virginia. We do not have responses that can console the losses of the victims and their families, and those who were injured. However, we can begin with today's hearing and the first appropriation for Metro under our bill to demonstrate to all the families, friends and associates, and to current riders that this tragedy has already had immediate effects for assuring the safety of our transportation system.

Opening Statement of Congressman Gerald E. Connolly

Subcommittee on Federal Workforce, Post Office, and District of Columbia

“Back on Track: WMATA Red Line Metrorail Accident and Continual Funding Challenges”

Wednesday, July 15th, 2009

Thank you, Chairman Lynch for convening this hearing on the tragic event that has understandably alarmed the residents of the National Capital Region.

A constituent of mine from Springfield, the train’s driver, died in that accident. We have the second largest rail transit system in the country and it doesn’t have a dedicated funding source. Frankly, we are lucky not to have had more accidents. Our outrage, however, should be directed not at those individuals who manage Metro but rather at the political leaders who have not provided the funding necessary to maintain this essential transportation system.

Metro General Manager John Catoe just won an award for his service as Metro’s General Manager. With the highest farebox recovery of any major transit system in the nation, and lacking dedicated funding that supports other large transit systems in the country, Mr. Catoe and his team have done what they can to make ends meet.

Virginia, Maryland, and the District of Columbia have all identified \$50 million that each jurisdiction can contribute to establish dedicated Metro funding, even amending this ‘Metro Compact’ in record time to achieve consistency among jurisdictions. Only the Federal government has failed to provide its \$150 match to these local contributions.

Despite the understandable public concern surrounding the Red Line accident, we could remember the overall safety record of transit systems in the U.S. Highway accidents are the leading cause of death for Americans between the ages of 4 and 34. In 2007, 40,000 Americans died in highway deaths while 25 died in accidents on heavy rail systems. According to the National Safety Council, there are 0.71 highway fatalities per 100 million passenger miles versus 0.05 deaths per 100 million passenger miles on rail systems. Even with deferred maintenance funding, it is far safer to ride on Metro than on the Beltway. However, the inherent safety of transit systems should not detract from the need to make investments that could eliminate some of those couple dozen annual fatalities.

Let us ensure that the deaths on the Red Line do not come in vain. I hope that we will remember our constituents who were in this accident next time some voices suggest that Metro can subsist on little more than fairy dust and best wishes, without any funding to accompany it.



August 21, 2009

The Honorable Stephen F. Lynch, Chairman
Subcommittee on Federal Workforce, Postal Service,
and the District of Columbia
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515-6143

Dear Chairman Lynch:

Thank you for your July 20, 2009 letter to the Washington Metropolitan Area Transit Authority (WMATA) requesting a list of the safety recommendations that have been made by the National Transportation Safety Board (NTSB), but that have not been implemented by WMATA.

Please note that of a total of 77 NTSB recommendations made to WMATA (including one following the June 22, 2009 collision), 61 of them have been closed with an NTSB notation of "closed acceptable action." Attached is a spreadsheet which provides a detailed status of the remaining 16 NTSB recommendations:

- Five recommendations classified as "closed unacceptable action," which means WMATA did not accept the recommendation and an explanation was given to justify WMATA's action.
- Three recommendations classified as "open unacceptable response," which means that the NTSB did not accept WMATA's response.
- Seven recommendations classified as "open acceptable response," for which WMATA has action plans to implement the recommendation.
- One recommendation classified as "open," for which WMATA has begun the mitigation process.

Thank you for the opportunity to share this information with the Subcommittee and for your continued support of WMATA. Should you have additional questions concerning the information provided in the enclosed spreadsheet or the NTSB's recommendations, please contact me or have your staff contact Sarah Kline, Director of Policy and Government Relations, at (202) 962-1632.

Sincerely,

John B. Cattee, Jr.
General Manager

Enclosure

**Washington
Metropolitan Area
Transit Authority**

600 Fifth Street, NW
Washington, DC 20001
202/962-1234

www.metroopensdoors.com

A District of Columbia,
Maryland and Virginia
Transit Partnership

NTSB Background Synopsis:

On January 13, 1982, Washington Metropolitan Area Transit Authority (WMATA) northbound blue/orange line train no. 410 derailed at the Smithsonian interlocking on the downtown subway (Metrorail) line in Washington, D.C. While being operated manually, train no. 410 had been unintentionally routed into a crossover track at the interlocking. Without requiring a supervisor, who was at the location, or the train operator to ascertain that it was safe to do so, the WMATA Operations Control Center (OCC) allowed the supervisor to back the train out of the crossover track. As this was being done, the rear car derailed and struck the end of a reinforced concrete barrier wall separating the two main tracks in the subway tube. The aluminum sidewall of the car was severed and the main passenger compartment was breached. Of the approximately 220 passengers on the car, 3 were killed and 25 were injured. Damage to the property was estimated to be \$1,325,000.

NTSB Recommendation and Date	Status	Comments	Issues Preventing Close-out
R-82-058, 10/15/1982: The NTSB recommends that the Washington Metropolitan Area Transit Authority modify the overspeed control on the Metrorail cars to enforce speed commands of the automatic train protection subsystem to and including zero miles per hour.	Closed - unacceptable action 12/14/83	08/13/1984: NTSB stated that as long as unenforced operation is permitted in the manual mode under 15 mph, the potential for train collisions will continue to exist.	Actions to assure safety at operations below 15 mph: WMATA maintains that establishment of an absolute block provides a sufficient level of safety at speeds below 15 mph.
R-82-059, 10/15/1982: The NTSB recommends that the Washington Metropolitan Area Transit Authority change the identification numbers of its interlockings and interlocking signals to eliminate possible misunderstandings which could result in a train improperly passing a restricting signal.	Closed - unacceptable action 12/15/1982	08/13/1984: NTSB stated that the duplication of signal identification numbers at interlockings was a basic design flaw that could lead to a misunderstanding and the wrong train passing a red signal.	Clarity of signal IDs to maintain safety: WMATA introduced the International Phonetic Alphabet into the radio protocol to clarify which signal was being called out.
R-82-071, 10/15/1982: The NTSB recommends that the Washington Metropolitan Area Transit Authority equip each Metrorail car with an adequate number of self-contained, battery-powered emergency lights which will automatically illuminate the car interior in the event the car's auxiliary and emergency power is lost.	Closed - unacceptable action 10/18/1984	8/13/1984 NTSB stated that car separation would result in all emergency systems being inoperative and that tunnel lighting is not adequate with fire/smoke conditions.	Backup lighting systems for safety in emergencies: WMATA maintains that battery backup already exists in the cars for emergency systems and in the tunnel lighting system.
R-82-073, 10/15/1982: The NTSB recommends that the Washington Metropolitan Area Transit Authority retrofit existing Metrorail cars with derailment detector devices which will apply the brakes in emergency when a car wheel leaves the rail. Require that all new cars be so equipped.	Closed - unacceptable action 10/18/1984	2/19/1985 NTSB continued to recommend use of a derailment detector, which they believe could have prevented loss of life. They stressed that safety benefits far outweigh any operational delays.	Device availability and operational delays: WMATA found only prototypes and no system successfully using them and noted that BART has many operational delays caused by their system.

NTSB Background Synopsis:

On Wednesday, November 3, 2004, about 12.49 p.m., eastern standard time, WMATA Metrorail train 703 collided with train 105 at the Woodley Park station in Washington, D.C. Train 703 was traveling outbound on the Red-Line segment of the Metrorail system and ascending the grade between the Woodley Park and the Cleveland Park underground stations, when it rolled backwards about 2,246 feet and struck train 105 at a speed of about 36 mph. Train 703 was operating as a nonrevenue train; that is, it was not carrying passengers. Train 105, a revenue train, was in the process of discharging and loading passengers at the Woodley Park station. There were about 70 passengers on board train 105. Some passengers had exited the train just before or during the collision. The District of Columbia Fire and Emergency Medical Service transported about 20 persons to local hospitals. Estimated property damages were \$3,463,183.

NTSB Recommendation	Status	Comments	Issues Preventing Close-out
R-06-1, 4/19/2006: Equip, as soon as possible, all existing and future train equipment with rollback protection for trains operated in the manual mode.	Open – acceptable response	Current: During rehabilitation of WMATA's 2000 and 3000 series rail cars, vehicle rollback protection during manual vehicle operation was added.	Rollback protection on 1000 series rail cars: Will notify NTSB once WMATA adds rollback protection to these rail cars or replaces them.
R-06-2, 4/19/2006: The NTSB makes the following safety recommendations to WMATA: Either accelerate retirement of Rohr-built railcars, or if those railcars are not retired but instead rehabilitated, then the Rohr-built passenger railcars should incorporate a retrofit of crashworthiness collision protection that is comparable to the 6000-series railcars.	Closed – Unacceptable Action 10/05/2007	04/1997: Booz Allen & Hamilton report "WMATA Rail Vehicle Underframe Strengthening Retrofit Feasibility Study" concluded that "it is neither desirable nor practical" to strengthen the underframe and that instead WMATA should seek to obtain more crashworthy vehicles in upcoming procurements. 2007: As part of efforts to provide the latest crashworthiness and passenger safety requirements for its rail car procurements, WMATA was the first U.S. transit authority to require "dynamic sled" testing. (WMATA was the second U.S. transit property to run full-scale vehicle crash tests.) 2008: The American Society of Mechanical Engineers (ASME) published "Safety Standard for Structural Requirements for Heavy Rail Transit Vehicles." (Released after 5 years of development, this standard was intended to ensure that all occupants in rail cars are provided with an improved level of protection.) Current: WMATA has included updated crashworthiness features and additional safety improvements in its later rail car procurements, including the procurement now underway.	1) Technical/safety issues of retrofitting Rohr-built rail cars: 1997 BAH internal report explained why reinforcement of rail car structure suggested by NTSB could "degrade the crashworthiness of the cars in the sense of risk of passenger injury." 2) Cost and timing issues: Even if technical/safety issues related to a retrofit could be resolved, WMATA determined that limited funds should be directed to replacing the oldest railcars with equipment with improved crashworthiness features. The RFP for new rail cars issued on Jan. 30, 2009 included such safety features. WMATA's ability to replace the Rohr-built rail cars is dependent on sufficient capital funding (over \$800M). It takes years to design, build, and put new rail cars into service because of the nature of heavy rail transit vehicles (which unlike commuter or intercity rail cars must be built to meet the unique design and operating parameters of the transit system).

NTSB Background Synopsis:

On January 7, 2007, about 3:45 p.m. eastern standard time, northbound WMATA Metrorail train 504 derailed one car (car 5152) as the train traversed a crossover from track 2 to track 1. The accident occurred in an underground tunnel on the Metrorail Green Line near the Mt. Vernon Square station at chain marker E2 23+28. The train was traveling about 18 mph as it approached the station.

NTSB Recommendation	Status	Comments	Issues Preventing Close-out
R-07-24, 12/20/2007: The NTSB makes the following recommendations to the Washington Metropolitan Area Transit Authority: Implement quality assurance procedures to ensure accurate wheel truing, including the regular alignment and indexing of cutting heads on wheel milling machines.	Open – Acceptable Response	Current: WMATA's Rail Operations Quality and Warranty Office developed written procedures--currently undergoing final approvals within WMATA--for conducting independent bi-annual audits of the wheel profiling process at all shops, which will verify accurate wheel truing (including the regular alignment and indexing of the cutting heads on wheel milling machines).	Final written procedure: Once the final written procedures have been approved, WMATA will forward to the NTSB.
R-07-25, 12/20/2007: The NTSB makes the following recommendations to the Washington Metropolitan Area Transit Authority: Establish procedures to ensure that there is appropriate coordination between all departments responsible for car maintenance and engineering design to ensure that problematic issues are identified, examined, and resolved before new equipment is ordered.	Open - Acceptable Response	Current: WMATA's Rail Operations Delivery Department developed procedures--pending internal approvals--to document the process with the 7000 series railcar specification development (including the car-leveling system) to include appropriate coordination between railcar maintenance and engineering, operations, quality, transportation, procurement, and safety.	Final written procedure: Once the final written procedures have been approved, WMATA will forward to the NTSB.

<p>R-07-26, 12/20/2007: The NTSB makes the following recommendations to the Washington Metropolitan Area Transit Authority: Establish a process, including a single point of responsibility, to prompt timely evaluation and action on proposed safety improvements that are identified as a result of accident and derailment investigations and related research projects.</p>	<p>Open - Acceptable Response</p>	<p>Current: WMATA's Operations Delivery Department developed procedures-- pending internal approvals--that require the Chief Engineer of Vehicles (as a single point of responsibility) to review and evaluate proposed safety-related improvements that are identified as a result of an incident, unacceptable hazard, accident or derailment investigation, or related research projects.</p>	<p>Final written procedure: Once the final written procedures have been approved, WMATA will forward to the NTSB.</p>
<p>R-07-27, 12/20/2007: The NTSB makes the following recommendations to the Washington Metropolitan Area Transit Authority: Establish written procedures for rail lubrication that include close coordination between the operating and track engineering departments to ensure timely and appropriate rail lubrication is applied in normal and single-track operations.</p>	<p>Open - Unacceptable Response</p>	<p>10/03/2008: NTSB made the following comments: - WMATA's October 25, 2005, memorandum did not contain requirements for coordination between the operating and track engineering departments. - Although WMATA had drafted a written standard operating procedure and a track maintenance procedure that expand on the instructions in the October 2005 memorandum and provide technical guidance regarding the location, application procedures, and frequency of rail lubrication, these procedures do not address the need for interdepartmental communication and coordination when single-tracking operations are planned. Current: WMATA has developed comprehensive rail lubrication procedures that include interdepartmental coordination and take into account both operational and track engineering demands in normal and scheduled single-track operations. In addition, WMATA is currently testing a rail lubrication application.</p>	<p>Completion of testing and final written procedures: Once testing is completed and the final written procedures have been approved, WMATA will forward to the NTSB.</p>

<p>R-07-28, 12/20/2007: The NTSB makes the following recommendations to the Washington Metropolitan Area Transit Authority: Expedite and complete by 2009 the replacement of all No. 8 standard turnouts with guarded turnouts on main track.</p>	<p>Open - Unacceptable Response</p>	<p>Background: There are a total of 367 No. 8 turnouts on the Metrorail system (main line, connecting leads, yard turnouts and secondary tracks), in addition to several hundred turnouts of other sizes in the Metrorail system. Turnouts are replaced on a condition-based assessment, and WMATA's Office of Track and Structures System Maintenance can only install about 28 new turnouts (total) annually due to a number of limitations, including procurement, manufacturing, and track access. Current: All No. 8 unguarded turnouts on the main line and in the yards should be replaced by the end of FY2020.</p>	<p>Procurement, manufacturing, and operational/track access limitations: WMATA apprised the NTSB that it was impossible to complete replacement of these unguarded turnouts by 2009 but is on schedule to replace them by the end of FY2020 (i.e., June 30, 2020).</p>
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Background Synopsis:

About 10:16 a.m. on Sunday, May 14, 2006, a southbound Metrorail Red Line subway train struck and killed a Metrorail employee as the train was about to enter the Dupont Circle station in Washington, D.C. The employee was an automatic train control system mechanic who had been working with two other mechanics at the interlocking just north of the Dupont Circle station. All three mechanics had moved between the two main tracks north of the interlocking in order to stay clear of a northbound train that was leaving the station. As the southbound accident train was arriving, the other two mechanics remained in the clear between the two trains as they passed and were not injured. According to signal system data logs, the southbound train was moving about 40 mph as it traveled past the interlocking.

NTSB Recommendation	Status	Comments	Issues Preventing Close-out
R-08-01, 1/30/2008: The NTSB makes the following safety recommendations to the Washington Metropolitan Area Transit Authority: Review your Metrorail Safety Rules and Procedures Handbook and revise it as necessary to create additional layers of protection for wayside workers, including: - Adding requirements for wayside pre-work job briefings to ensure that all workers are informed of their duties, of their respective roles in work crew safety, and of the areas that are to be used to stay clear of trains. - Requiring that when train operators request permission to either enter a main track, or when a train is turned for a return trip, the train operators along the affected lines must acknowledge receipt of the updated radio announcement from the control center regarding wayside workers. - Establishing procedures to be used for members of a work crew to acknowledge a lookout's warning that a train is approaching on a particular track from a particular direction before a lookout gives an all clear signal to a train.	Open – Acceptable Response	06/15/2009: NTSB noted that the Metrorail Safety Rules and Procedures Handbook (MSRPH) will contain the following and that these efforts by WMATA constitute an acceptable response to the recommendation: (1) information currently found in Special Order 07-06 in support of additional layers of protection for wayside workers, (2) a modification to Rule 3.13.1 with added responsibilities related to communicating the location of wayside maintenance to train operators, and (3) the responsibilities of a work crew and lookout.	Final publication of the Metrorail Safety Rules and Procedures Handbook: Upon completion of the MSRPH, WMATA will forward a copy to the NTSB. At that time, WMATA will request that the "open acceptable" response be classified as closed.

<p>R-08-02, 1/30/2008: The NTSB makes the following safety recommendations to the Washington Metropolitan Area Transit Authority: Establish a systematic program for frequent unannounced checks of employee compliance with Metrorail operating and safety rules and procedures.</p>	<p>Open - Acceptable Response</p>	<p>06/15/2009: NTSB noted that WMATA's Rail Operations Department is establishing a Policy Instruction (PI) program for performing quality checks and the Quality Assurance staff is performing random unannounced checks for compliance with all safety rules in accordance with WMATA Special Order 07-06, which will be incorporated into the revised MSRP. The new policy--pending internal approvals--will include department responsibility for defined programs and will specify activities and rules that must be monitored, the frequency of checks, and ways in which data are to be collected.</p>	<p>Final Policy Instruction: Once the final policy instruction has been approved, WMATA will forward to the NTSB. At that time, WMATA will request that the "open acceptable" response be classified as closed.</p>
<p>R-08-03, 1/30/2008: The NTSB makes the following safety recommendations to the Washington Metropolitan Area Transit Authority: Perform periodic hazard analyses on the deficiencies identified by unannounced checks of employee compliance in response to Safety Recommendation R-08-02, and use the results to revise Metrorail training curricula or enforcement activities, as necessary, to improve employee compliance with operating and safety rules and procedures.</p>	<p>Open - Acceptable Response</p>	<p>06/15/2009: NTSB noted that WMATA is (1) performing a hazard analysis using the deficiencies identified from unannounced checks of employee compliance with safety rules and that WMATA is (2) retraining its operators to address identified deficiencies. The final WMATA organizational Policy Instruction, which is in the last stages of development to be followed by internal approvals, will include the following: - On the first observed occurrence of noncompliance, the operator is individually retrained on the safety rule violated. - On the second occurrence, the operator is taken out of service for further evaluation.</p>	<p>Final Policy Instruction: Once the final policy instruction has been approved, WMATA will forward to the NTSB. At that time, WMATA will request that the "open acceptable" response be classified as closed.</p>
<p>R-08-04, 1/30/2008: The NTSB makes the following safety recommendations to the Washington Metropolitan Area Transit Authority: Promptly implement appropriate technology that will automatically alert wayside workers of approaching trains and will automatically alert train operators when approaching areas with workers on or near the tracks.</p>	<p>Open - Acceptable Response</p>	<p>06/15/2009: NTSB noted that WMATA has purchased wayside, car-borne, and employee-mounted equipment and has begun a pilot program to test warning devices for wayside workers and train operators.</p>	<p>1) Completion of pilot program to test warning devices: WMATA will advise NTSB of the results of the testing. 2) Installation of technology on Metrorail system: This action is dependent on success of pilot program.</p>

Background Synopsis:

On Monday, June 22, 2009, about 4:58 p.m., eastern daylight time, southbound Metrorail train 112 was travelling in a curve when it struck the rear end of train 214 before reaching the Fort Totten station. Train 214 had stopped before entering the station to wait for another train to leave the platform. The striking train was not equipped with onboard event recorders that would have recorded train speed and other parameters. There was no communication between the train operators and the Metrorail Operations Control Center before the collision. During the collision, the lead car of train 112 telescoped and overrode the rear car of train 214 by about 50 feet. Examination of the track and wreckage indicated that the emergency brake on train 112 was applied before impact. The District of Columbia Fire and Emergency Medical Service reported 9 fatalities and transported about 52 persons to local hospitals. Although the NTSB's investigation is ongoing and no determination of probable cause has been reached, investigators have concerns regarding the safety redundancy of WMATA's train control system, which has prompted issuance of this urgent safety recommendation.

NTSB Recommendation	Status	Comments	Issues Preventing Close-out
R-09-06, 07/13/09: The NTSB makes the following urgent safety recommendation to the Washington Metropolitan Area Transit Authority: Take action to enhance the safety redundancy of your train control system by evaluating track occupancy data on a real-time basis in order to detect losses in track occupancy and automatically generate alerts. Alerts should prompt actions that include immediately stopping train movements or implementing appropriate speed restrictions to prevent collisions.	Open	WMATA has accepted this recommendation. Heavy rail systems such as WMATA are unique in terms of infrastructure, vehicles, and operations, and it is for this reason that there is no "off the shelf" back-up train control system. Since no commercial systems are currently available to provide the Metrorail system with the kind of alerts that the NTSB has recommended, WMATA immediately started the processes necessary to develop such a system.	Development of back-up system designed to meet the unique requirements of the Metrorail system: WMATA is currently communicating with vendors who have the expertise needed to assist WMATA in developing this back-up system and will move forward as quickly as possible to implement the NTSB recommendation.