

# THE FEDERAL TRANSIT ADMINISTRATION'S STATE SAFETY OVERSIGHT PROGRAM

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
HIGHWAYS, TRANSIT AND PIPELINES  
OF THE  
COMMITTEE ON  
TRANSPORTATION AND  
INFRASTRUCTURE  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED NINTH CONGRESS  
SECOND SESSION

JULY 19, 2006

Printed for the use of the  
Committee on Transportation and Infrastructure



U.S. GOVERNMENT PRINTING OFFICE

30-660 PDF

WASHINGTON : 2007

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## **THE FEDERAL TRANSIT ADMINISTRATION'S STATE SAFETY OVERSIGHT PROGRAM**

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**Wednesday, July 19, 2006**

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON HIGHWAYS, TRANSIT, AND PIPELINES, WASHINGTON, D.C.

The subcommittee met, pursuant to call, at 2:30 p.m., in room 2167, Rayburn House Office Building, the Honorable Thomas E. Petri [chairman of the subcommittee] presiding.

Mr. PETRI. Good afternoon, we will get started. I apologize, the rest of my colleagues are on the floor. I apologize for the confusion of the vote.

Rail transit is a very safe mode of transportation. There were 3.25 billion passenger trips on heavy rail, light rail, and other rail in 2004, and a total of 82 fatalities; of these 27 were suicides which could not be foreseen or prevented by the transit agencies.

There are a number of reasons that riding transit is a very safe way to travel. In general, transit vehicles are much larger and more substantially built than personal cars and vans. Most railcars run on separate right of ways, and rail crossings are usually protected by crossing gates. Furthermore, transit vehicle operators are highly trained to drive defensively and anticipate potential safety problems.

However, any number of preventable acts is too many. Transit providers must strive to make every trip safe and reliable.

Because the Federal Transit Administration is not a regulatory agency, it does not manage a top-down safety inspection and enforcement program like those of the Federal Railroad Administration, Federal Aviation Administration, or Federal Motor Carriers Safety Administration. Instead, the Federal Transit Administration relies upon State safety oversight agencies that are designed by each State that has a fixed guideway rail system. There are currently 42 rail transit systems under the State Safety Oversight Program in 26 different States. In the next three years, as many as seven more rail transit systems may open, including systems in two additional States.

We are holding this oversight hearing today to explore the effectiveness of the FTA State Safety Oversight Program. We will talk about FTA's program goals and performance measures, the Government Accountability Office's finding in a year long review of this program, and the actual day to day management of the State oversight agencies.

Even though transit is a very safe mode of travel, accidents do happen. Last Tuesday, July 11th, a blue line Chicago Transit Authority train derailed and caught fire in the tunnels below the Clark and Lake subway station. Thankfully, there were no fatalities, although two people remain in the hospital in critical condition. The Regional Transit Authority, the State safety oversight agency for CTA is appearing at today's hearings. We will listen with interest to a realtime discussion of how an oversight agency responds to accidents on the transit system they oversee.

The State Safety Oversight Program was first created in the 1991 ISTEA Authorization Bill and is overall a successful program. However, there may be room for improvement even in a good program, and we look forward to exploring those suggested improvements at today's hearing.

I would like to thank all the witnesses who traveled to the Nation's Capital to present testimony at today's hearing. Statements by the Chairman of the full Committee, the Ranking Democratic Member and my colleague, Mr. DeFazio, will be made a part of the record.

We would now like to turn to the first panel: Ms. Susan E. Schruth, who is Associate Administrator for Program Management, Federal Transit Administration, and Ms. Kate Siggerud, Director, Physical Infrastructure Issues of the U.S. Government Accountability Office. We thank you for your prepared statements and invite you each to summarize them in about five minutes, beginning with Ms. Schruth.

**TESTIMONY OF SUSAN E. SCHRUTH, ASSOCIATE ADMINISTRATOR FOR PROGRAM MANAGEMENT, FEDERAL TRANSIT ADMINISTRATION; KATE SIGGERUD, DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

Ms. SCHRUTH. Thank you, Mr. Chairman. Thank you for this opportunity to testify on the FTA State Safety Oversight Program.

My written testimony contains detail on the development of this program as well as improvements that have made it the success that it is today. This afternoon, I would like to highlight a few of these successes and then briefly describe areas in which we seek to enhance the program.

With over three billion transit trips provided annually, the rail transit industry has much to be proud of. Analysis of transportation-related accidents, fatalities, and injuries consistently show that rail transit is the safest mode of transportation in the United States.

Since your Committee authorized the State Safety Oversight Program in 1991, it has contributed to this impressive safety record. FTA published a final rule for the program in 1995 with a two-year phased-in effectiveness period. The startup of the program was challenging, particularly in States with little or no previous oversight responsibility. FTA worked closely with the affected States and rail transit agencies to ensure that resources were dedicated to create oversight agencies and that technically competent managers led the newly created oversight agencies.



As specified in ISTEA and recommended by the NTSB, the State Safety Oversight Program takes a unique approach to safety oversight. FTA is responsible for setting minimum requirements and for monitoring implementation. Primary safety oversight responsibility lies with the States. After a decade of experience with the program, we believe that this is an effective model.

In 2003, FTA undertook improvements to the program based on FTA's experience with the program as well as recommendations from the Federal Railroad Administration and NTSB. FTA published a revised Part 659 in 2005, which made several program changes. The new rule specifies in detail the minimum contents of a system safety program.

Based on input from the States and transit agencies, we identified program-specific requirements through the Federal rulemaking process which included notice and public comment. We believe these more explicit requirements tailored to the specific oversight role of the State safety oversight agency and the implementation role of the transit agency enhance both the usability and the enforceability of the provisions and are necessary to improve the effectiveness of the program.

Last year, SAFETEA-LU further amended and enhanced the program. First, SAFETEA-LU requires that the State Safety Oversight Program be extended to rail transit projects in the design phase. This will help us ensure that the State safety oversight agencies are ready to provide oversight as soon as transit commences service. And second, SAFETEA-LU clarifies that when a transit agency operates across State lines, the rail transit agency should be subject to one uniform set of safety oversight standards.

Mr. Chairman, in my written testimony, I provide several examples of the benefits of the program. I would like to highlight one here. Leading up to the Salt Lake City 2002 Olympics, the Utah Oversight Agency actively engaged with Utah Transit to ensure that safety was addressed effectively in contracts, service plans, and vehicle testing programs. During the games, Utah's Spectator System, provided by the Utah transit Authority, carried over 2.5 million passenger trips without a single safety incident.

In this example, as with so many others, it is difficult to quantify benefits based on accident data alone. Because of the importance of being able to do so, we have undertaken two efforts to develop ways to quantify this program's positive effect.

First, we have conducted an extensive analysis of all data reported to FTA by the rail transit agencies and oversight agencies. Using this data, we will establish goals for reduction in critical accident categories as well as create measures to assess how well we meet these goals.

Second, I would like to highlight the work we are doing with the Oklahoma State University. Through this study, FTA will be able to articulate and use performance measures that capture less tangible but important measures such as passenger perception of safety and security, near misses, and measures that can articulate the safety benefits from specific design features or operating procedures. In an industry that is safe, many of these measures will identify the incremental benefits of the program.

We are also reinstituting our triennial audit cycle. During the three year period between October of this year and September of 2009, we will audit each of the 26 State safety oversight agencies.

In closing, Mr. Chairman, FTA believes that the State Safety Oversight Program has contributed to rail transit safety and has proven its merits as a sound, successful oversight program. As with all of our programs, we are committed to continuous improvement. Looking forward, we will work to improve the program with new statistical performance measures and a more comprehensive State Safety Oversight Training Program.

FTA is proud of the State Safety Oversight Program to date, and we look forward to working with you, Mr. Chairman, and your Committee to make it even better.

I am happy to answer any questions, Mr. Chairman, and request that my written statement be entered into the record. Thank you.

Mr. PETRI. Thank you. It will be made a part of the record.

Ms. Siggerud?

Ms. SIGGERUD. Chairman Petri, Ranking Member DeFazio, and members of the Subcommittee, I appreciate the opportunity to testify on Federal efforts to oversee the safety and security of the Nation's rail transit systems.

Rail transit is one of the safest forms of public transportation, accounting for less than 6 percent of all accidents while providing almost 32 percent of all passenger trips. Nevertheless, safety and security are still concerns as shown by the accident last week in Chicago and recent attacks of terrorism on European and Indian rail systems.

The focus of my testimony today is FTA's State Safety Oversight Program. I will first describe how the State Safety Oversight Program is designed; second, discuss its impact on rail transit safety and security; and third, identify challenges in implementing the program.

My comments are based on our ongoing work for the Chairman and Ranking Member of the full Committee. We will release our report a week from today. To my knowledge, it is the first comprehensive review of this program.

First, a little background on the program: Unlike other modal administrations in DOT, FTA does not have regulatory and enforcement authority regarding transit safety. In ISTEA, Congress required FTA to issue regulations requiring States to designate an oversight agency to oversee rail transit safety. In 1997, FTA began to implement the program and issued new regulations last year.

As we noted earlier, there are 42 rail transit agencies that are overseen by a total 25 State safety oversight agencies in the Country. The program applies to rail fixed guideway systems such as heavy and light rail and streetcars that are not regulated by FRA and that receive funding under FTA's formula program for urbanized areas.

Turning now to the design of the State Safety Oversight or SSO Program, it is meant to be a collaborative effort. At the Federal level, FTA requires States to designate a State safety oversight agency, develops rules and guidance for the use of State agencies in overseeing transit operations, and periodically audits State pro-

grams and reports on the programs' results. It does not fund a State agency's ongoing oversight.

The Department of Homeland Security is also a player. It issued security directives in 2004 and began deploying rail inspectors in 2005. Finally, the Federal Railroad Administration has authority when rail transit shares track or right of way with passenger or freight rail.

At the State level, the SSOs directly oversee transit agencies' activities including their safety and security plans. Most commonly, these agencies are State transportation departments, but public utility commissions and regional transportation authorities also serve in this role.

At the local level, transit agencies develop and implement safety and security plans, assess hazardous conditions, report incidents to the oversight agency, and keep the SSO apprised of corrective actions.

With regard to the impact of the State Safety Oversight Program, almost all oversight and transit agencies report that it is worthwhile in terms of promoting and improving safety and security. Transit agency officials told us the following: that the oversight agency helps them identify large systemic safety and security issues, that the program exerts influence on a transit agency's board of directors or senior management to get safety and security improvements made, and encourages a consistent approach to safety and security across the Nation's diverse transit system.

However, there is limited information showing the program's impact. This has two causes. First, while FTA issued annual reports through 2003 that track transit accident/crash/fatality on the safety data, it has not established program goals and performance measures. We acknowledge that the relatively low number of fatalities and incidents and the varying design of rail transit systems complicate setting such goals, but we feel the effort is worthwhile to gauge the program's effects.

Second, while FTA views audits of SSOs as a key oversight mechanism, FTA has not conducted audits every three years as it envisioned at the program's start. This reduced schedule limits FTA's ability to conduct oversight including collecting information on the SSO agencies and making informed and timely revisions to the program. FTA told us they did not keep to their audit schedule because they reassessed the priorities of the program after the September 11th terrorist attacks. They commented that the program is in a transition period and committed to us to get back on track with the audit schedule.

FTA faces two challenges in managing and implementing the program. First, the level of State oversight staff expertise and the number of oversight staff varies widely. For example, one oversight agency requires its staff to have at least five years of rail transit experience while another assigned oversight responsibilities to a transportation planner as a collateral duty. As you can see, the level of staffing also varies widely and is not always in proportion to the size of the transit system.

Most transit and oversight agency officials believe that a FTA-developed curriculum and Federal funding for training would improve the qualifications and effectiveness of SSO staff. This would

be similar to approaches used by other DOT administrations that rely on State employees to provide safety oversight.

A second challenge to implementing the program is that most SSO and transit agency staff identified their uncertainty about the role of the Transportation Security Administration in the SSO program. TSA's rail inspection program is still developing, and several Oversight and transit agency officials told us they were concerned about the potential for duplication of effort. TSA and FTA recognize this concern and have begun discussions on how to coordinate their oversight efforts.

Mr. Chairman, this concludes my statement. I am happy to answer any questions you may have.

Mr. PETRI. Thank you.

We will begin questioning with Mr. Pascrell.

Mr. PASCRELL. Thank you, Mr. Chairman.

I have a couple questions for each, but I would be remiss if I didn't welcome Mr. Bob Sedlock, Manager for the Fixed Guideway Safety Oversight at the New Jersey Department of Transportation, the oversight agency.

Mr. Chairman, I am troubled by one thing before I start asking questions. There continues to be confusion about what role the oversight agencies are to play in overseeing rail security. As you know, I am on both of those committees. As the Transportation Security Administration has hired rail inspectors to perform a potentially similar function, this could result in conflicting directions or duplication of effort. So I hope we will get some clarity here today from you folks.

Ms. Siggerud, in its review of the State Safety Oversight Program, the GAO, and I depend a lot in what I do here on the GAO. They are an independent agency, and they do great work for the members of Congress.

They found that there was this confusion about what role oversight agencies are to play in overseeing rail security, and Congress itself as some confusion as to what oversight means and what we are supposed to be doing when we oversee. Where does our authority begin and where does it end?

The Transportation Security Administration hired these rail inspectors to perform a similar function which could result in conflicting directions, as I just mentioned. This is a widespread problem with many of the transportation agencies when integrating and when partnering with the DHS, the Department of Homeland Security, in their public security mission.

In this case, what steps should be taken to remedy the situation? What do you think should be done?

Ms. SIGGERUD. We will be issuing our report on this entire program next week, and we plan to make two recommendations in that area. The first would be that the TSA rail inspectors use the already considerable work that the transit agencies the State safety oversight agencies put into developing these security plans that are a part of this program, that the TSA rail inspectors use those security plans and work with FTA in helping them conduct that oversight of the security part of the operation. We are also recommending to the extent that there are any significant security findings that the inspectors have, that they are keeping the State

safety oversight agencies and, to the extent relevant, the FTA in the loop as well.

I think the jury is still out on whether we will see an adequate level of cooperation here. There are a few encouraging signs. Since we began our work, TSA has designated one of its inspectors to be a liaison to each of the State safety oversight agencies, and so there is a beginning dialogue. I also understand there is a pilot program that is just getting underway to work in particular with the California State safety oversight organization who will be on the second panel.

Nevertheless, I think this is an area that needs continued oversight.

Mr. PASCRELL. It needs oversight, but the question was specifically what were you recommending in order to, in any manner, shape, or form, soften the conflicts that apparently do exist.

Ms. SIGGERUD. And our two recommendations with regard to this particular program have to do with making good use of the security plan that is already being developed by each of these transit agencies and not having dual oversight from TSA and FTA.

Mr. PASCRELL. So we still do not have complete plans to basically review the safety apparatus, the safety structure, infrastructure of the transit lines?

Ms. SIGGERUD. Well, each transit agency is expected to develop two separate plans, a safety plan and a security plan.

Mr. PASCRELL. And you have oversight over that?

Ms. SIGGERUD. No. The State safety oversight agencies have oversight over that, and they are active in reviewing and approving those plans.

Mr. PASCRELL. Who makes sure that they are doing their job of oversight?

Ms. SIGGERUD. It is the Federal Transit Administration's job. They are to review annual reports from these State agencies. Their goal is to conduct audits every three years to make sure that the State agencies are carrying out their responsibilities.

Mr. PASCRELL. That makes sense to you?

Ms. SIGGERUD. Yes, it does.

Mr. PASCRELL. I am glad it makes sense to you.

Ms. SCHRUTH, the FTA has not developed performance goals that I know of for the State Safety Oversight Program. While you may not currently be able to definitively measure the program's benefits, what is your qualitative assessment, and does this program benefit public safety?

Ms. SCHRUTH. Thank you, Congressman Pascrell.

We believe that the program definitively adds to the safety of the rail transit industry even though it has the lowest accident record of any of the transportation modes. We have seen a decline in the overall accident rate of the agencies under the State Safety Oversight Program of about 7 to 9 percent since 1999.

We do have data from the National Transit Database that we look at and analyze, but where we lack and where we have committed to working to improving our performance measures is tying the improvement and performance to the actual State safety oversight program.

Mr. PASCRELL. What are the FTA's plans to develop the performance measures?

Ms. SCHRUTH. Well, we have two efforts underway. One is we have a contractor directly working for our staff, who is identifying potential measures. They have taken all the data that has been reported to us, both in the NTD as well as the annual reports from the State safety oversight agencies, and they are analyzing the types of accidents and the rates, just to see what our database is. Then they are trying to identify performance measures in the traditional way. So we have that effort.

Plus, we have worked with the Oklahoma State University that may end up being some cutting edge research to look at ways that we can measure what we call near misses or things that didn't happen because of the program, which would really be able to measure the incremental benefits. That study is a couple stages effort, but it is underway and we are optimistic.

Mr. PASCRELL. Thank you both. Thank you.

Mr. PETRI. Thank you. I do have several questions, too.

Ms. Schruth, what are the trends in rail transit safety? Are certain kinds of accidents more common than others?

Ms. SCHRUTH. Yes, Mr. Chairman. First, I want to say, as I just mentioned to Congressman Pascrell, the rail programs that are under the State Safety Oversight Program represent less than two-tenths of 1 percent of all of the transportation fatalities in the United States on an annual basis, and that is part of the difficulty of measuring success. We have seen a downward trend in overall accidents.

The most prevalent accident or most prevalent safety issue right now are accidents involving motorists, and then we have trespasser situations. The things that are inherently within the control of the transit agency are among the smaller percentage of accidents, but nearly half of the accidents are intersections with motorists, if you want to call it that.

Mr. PETRI. Ms. Siggerud, I think you kind of answered this maybe by implication. Do you see the need to change FTA's oversight role of rail transit to more closely resemble oversight approaches used by the Federal Rail Administration and FMCSA which have Federal and State inspectors and develop their own technical standards and can assess financial penalties for non-compliance?

Ms. SIGGERUD. We thought long and hard about that in the past few months as we did this work, and I think the answer is not at this time. The reason is, as Ms. Schruth said, this is a relatively safe mode of transportation, and we don't have a lot of evidence that the State safety oversight approach is not working.

In fact, it would be a very significant mission change for FTA to take this on. It would involve hiring, training, and deploying inspectors. It would involve developing technical standards in an industry that varies widely in terms of the approaches to transit. We don't see that there would be significant benefit at this point to making such a radical change in the authority of the program.

Mr. PETRI. Let me ask both of you this to put you on the record. In your opinion, are the State safety oversight agencies adequately funded and staffed?

Ms. SIGGERUD. I think the answer to that varies. There are a number of State safety oversight agencies that have highly skilled staff and that are well funded, and I would say they are among those that are on your second panel. We found that the number of staff and the skills of the staff varied widely when we interviewed nearly all of these State safety oversight agencies. Some agencies require explicit training or experience; others really assign this to folks with very little experience as a collateral duty. We also found that in some cases the human resources were very stretched in this program.

This is the reason that we have made a recommendation or plan to make a recommendation next week with regard to being clearer about the type of training that is needed to perform this duty successfully, both with regard to rail transit experience and with regard to how to conduct oversight. We also feel very strongly that, as FTA ramps up again this auditing procedure, it should focus on this issue of adequate resources.

Ms. SCHRUTH. Mr. Chairman, I will say that FTA is very aware that most States at this point are strapped for resources, and we do get a lot of feedback from the State safety oversight agencies that they feel they do not have the resources they need to do a good job.

From our perspective, I think we set out standards and through our auditing process, we look to see if those minimum standards are met. We make sure there is technical capacity. So long as they meet the minimum technical capacity, then we don't feel we can prescribe numbers of staff or actual specific training backgrounds.

Mr. PETRI. I have one last question, Ms. Schruth. Does the FTA believe that it has the legal authority to direct State safety oversight agencies to require certain staffing levels, education, experience, or certification requirements of their staff? If it does not have such authority, could the agency at least issue guidance to States about what levels of staffing and training are appropriate for State safety oversight agencies.

Ms. SCHRUTH. If I could, I will answer the second part first because I think that is a better answer. We do provide a series of courses. We have worked with the Transportation Safety Institute in Oklahoma and with NTI as well as the World Safety Organization, to ensure that there are courses available in the technical aspects of State safety oversight and oversight that is provided by the transit agencies. We have encouraged the State safety oversight organizations to take advantage of the two different certification programs, and we bring all the State safety oversight directors in once a year at a minimum to talk about new changes.

We don't think that we can prescribe specific courses, but I do think, as what Ms. Siggerud said just previously, we are looking at providing some additional training courses that are focused on oversight management. All the courses that we have developed through TSI and NTI are free to State safety oversight agencies.

I would just have to say that I don't think we can be prescriptive about how many staff or what their backgrounds are. We think that really the States should conduct their programs in the way that they see appropriate, and our oversight or monitoring role will

reveal in our audits whether they are meeting the technical capacity and minimum requirements of the program.

Mr. PETRI. Thank you both. I appreciate your presenting your testimony.

We now turn to the next panel which consists of a familiar figure in these affairs, Mr. William W. Millar, President of the American Public Transportation Association; and Mr. Richard W. Clark, Director, Consumer Protection and Safety Division, California Public Utilities Commission; and Ms. Duana Love, Manager, Oversight and Technology, Regional Transportation Authority of Chicago.

I would like to ask my colleague, Russ Carnahan, to introduce the witness from his State.

Mr. CARNAHAN. Thank you and welcome all of you. I do want to give a special welcome to my fellow Missourian Robert Kraus who is the Rail Transit Safety Specialist for the Missouri Department of Transportation and State Safety Oversight. We always welcome our fellow Missourians here, and we are glad to have you with us and to be part of this important discussion before the Committee here today. So welcome to all of you.

Mr. PETRI. The final panelist is Mr. Robert Sedlock, Manager, Fixed Guideway Safety Oversight, New Jersey Department of Transportation.

We welcome you all, and we will begin with Mr. Millar.

**TESTIMONY OF WILLIAM W. MILLAR, PRESIDENT, AMERICAN PUBLIC TRANSPORTATION ASSOCIATION; RICHARD W. CLARK, DIRECTOR, CONSUMER PROTECTION AND SAFETY DIVISION, CALIFORNIA PUBLIC UTILITIES COMMISSION; DUANA LOVE, DIVISION MANAGER, OVERSIGHT AND TECHNOLOGY DEVELOPMENT, NORTHEASTERN ILLINOIS REGIONAL TRANSPORTATION AUTHORITY; ROBERT KRAUS, RAIL TRANSIT SAFETY SPECIALIST, MISSOURI DEPARTMENT OF TRANSPORTATION; ROBERT SEDLOCK, MANAGER, FIXED GUIDEWAY SAFETY OVERSIGHT, NEW JERSEY DEPARTMENT OF TRANSPORTATION**

Mr. MILLAR. Thank you, Mr. Chairman, Mr. Pascrell, and Mr. Carnahan. It is good to be with you today, and it is always a pleasure to reappear before this Committee, whatever the topic, and we are happy here today to be discussing the State Safety Oversight Program.

As you know, APTA has more than 1,500 members including all the operators of rail transit, commuter rail service, and light rail transit in America.

Now, safety is one of the highest priorities of the Nation's public transportation providers. So I am very pleased to discuss how we might improve the already successful State Safety Oversight Program, a program that helps ensure the safe operation of our rail transit systems.

Public transportation, particularly rail transit, as has already been pointed out by previous testifiers, is among the safest modes of travel in the U.S. Some statistics from the National Safety Council indicate that rail users are more than 14 times safer taking a trip in a rail vehicle rather than the same trip by a private automobile.



The State Safety Oversight Program or the SSO Program, as it is commonly known, has contributed to the outstanding safety record by requiring rail transit operators to periodically examine their operations under the watch of a designated State agency. The SSO is based mainly on concepts that were initiated and developed by the American Public Transportation Association, and we are very happy to share our thoughts on the current program.

APTA has been a leader in the area of rail safety, even prior to the inception of the SSO Program. Going back to the mid-1980's, APTA was asked by our rail members as well as by UMTA, which is FTA's predecessor, in the administration of the Federal program to develop a standardized program for rail transit safety. In response, APTA developed a program that established key components for a system safety program plan as well as a program to provide audits on a triennial basis. The focus of such audits is to assess the degree to which a transit system applies its own system safety plan to its operations and to assist the transit system in making necessary improvements. Our program was founded on effective industry practices already in place at the time as well as on the U.S. Military Standard 882-C. It is a voluntary APTA program known as the APTA Rail Safety Audit Program.

APTA's commitment to safety is also in our basis for our Standards Development Program which was initiated some 10 years ago. It includes standards for rail transit, commuter rail, bus operations, procurement, intelligent communications interface protocol, and security. APTA's status as a standards development organization has been recognized by the U.S. Department of Transportation, and our activities are funded in part both by our members and by Federal Transit Administration grants.

Currently, there are 56 public transit systems that participate in APTA's rail transit, commuter rail, and bus safety audit programs. These are comprehensive audit programs that examine every aspect of transit planning, construction, acquisition, operations, security, emergency preparedness, and maintenance to ensure the safety of public transportation passengers and employees.

The APTA Manual for the Development of the Rail Transit Safety Program Plans formed the substantive basis of FTA's State Safety Oversight Program when the program was initiated late in 1995, and it guided FTA's program until last year. We were disappointed then, however, when our manual was not referenced or acknowledged by FTA in the recent update of its State Safety Oversight Regulations. Our concerns were included in our formal comments to the rulemaking. However, it was not changed from the draft to the final, but we are pleased that FTA continues to acknowledge APTA's program as a standards development organization and in funding our program.

While we wish it was included more in their State Safety Oversight Program, we note that many, many of the operators of rail transit continue to use our program and it continues to form the basis of much of the activity that is out there.

Outside of FTA, APTA continues to work with other parts of the Federal DOT. The Federal Railroad Administration, for example, has partnered for the last 10 years with APTA and our commuter rail agencies in the development of a voluntary system of safety au-

ditions known as the APTA Commuter Rail Safety Management Program. Again, it has audits and on-going developments very similar to what we do on our rail transit program. We assist with many safety professionals in helping them to develop their skills. Also, unlike the FTA program, the FRA actually has its own staff accompanying our auditors on the program.

So, I know my time is just about here.

There are currently 10 providers of fixed rail transit that contract with APTA to execute what is known as the Internal Audit Function that is required under the State Safety Oversight Program. These 10 providers of service find it to be very useful, not only to meet the requirements of the program but to improve their own safety activities.

APTA is also involved in training safety professionals throughout the industry, and our own staff members help teach at the aforementioned Oklahoma Safety Center and in a number of other ways.

In conclusion, safety is very important to our members and very important to APTA. We believe that our role as a standard-setting organization could be further utilized in the area of improving safety.

We will be happy to answer any questions that the Committee might have or supply additional information as you might desire. Thank you, Mr. Chairman, for the privilege of being here.

Mr. PETRI. Thank you.

Mr. Clark?

Mr. CLARK. Thank you, Mr. Chairman and members of the Committee.

My name is Richard Clark. I am the Director of the Consumer Protection and Safety Division at the California Public Utilities Commission. Rail transit safety oversight is one of eight programs that I manage.

California has regulated its rail system since 1868. The California Public Utilities Commission has been responsible for the safety oversight since 1911. We therefore have a wealth of knowledge and experience in the field. As I hope you know, California is a leader in the safety and security oversight of rail transit systems.

My first recommendation is going to be that the FTA establish communication mechanisms that solicit and incorporate the State's knowledge, skills, and abilities into its decision-making process. I believe that the FTA has taken steps in this direction, but there is room for significant improvement.

My filed testimony gives the Committee a detailed overview of the rail transit systems we regulate, the CPUC's staffing level and staff expertise, and our regulatory process. My comments here today will touch lightly on those areas and will then move quickly to what CPUC sees as further opportunities for improvement in the FTA's role in the regulatory scheme of things.

CPUC oversight includes the safety and security regulation of six major rail transit agencies and encompasses 650 route miles with year 2005 ridership exceeding 275 million passengers. We oversee the safety of the San Francisco Municipal Railroad which began revenue service in 1912, the Bay Area Rapid Transit District which began revenue service in 1970, the San Diego Trolley which began

revenue service in 1981, the Sacramento Regional Transit District in 1987, Santa Clara Valley Transit Authority in 1987, and last but far from least, the Los Angeles Metropolitan Transportation Authority when the blue line began revenue service in 1990.

CPUC oversight includes four other transit agencies that do not have oversight mandated by Federal Transit Administration and one additional under construction with expected revenue service to start in December of 2007. Lastly, nine major projects in varying stages of construction and preliminary engineering are currently embedded in the Safety Certification Process of the PUC. In fiscal year 2005–2006, CPUC had 11.4 full time equivalent employees dedicated to rail transit safety oversight. The Governor and the Legislature have recently given us two more full time equivalents for fiscal year 2006–2007. So, we are currently at 13.4 FTEs.

Rail transit systems are in a perpetual state of acquisition and expansion as new equipment is purchased and system expansions are developed and constructed to fulfill the rapidly growing need for mass public transportation. All modifications and system rehabilitations require constant design and procurement efforts. Coordination and compatibility with the existing system, construction efforts under operating conditions, testing and break-in phases must all be managed as part of the ongoing system safety effort.

There are 12 major elements of our system safety oversight plan. They run the gamut from review and approval of system safety program plans to accident investigations.

The work of my division including the rail transit safety section is strategically planned. We follow a rigorous systems analysis of where we want to be, how to measure our performance, how to get to where we want to be from where we are, and a thorough assessment of our current environment and any unanticipated changes in that environment. We have a vision, mission, goals, objectives, priorities, work plans, and measures of success. We recently contracted with an expert to assist us in further developing measures of success because they can be difficult as has been stated here earlier today.

One major advantage enjoyed by the State Safety Oversight Program is its separation from the budgetary restrictions that apply to transit agencies. We have the authority to impose, when needed, a variety of mechanisms in order to gain compliance with the system safety program plan or some element thereof.

As a regulatory body, we have, on three occasions, ordered the cessation of revenue service after significant accidents. We did so in 1979 after a BART fire in a bay tube; we did so in 2001, after a mechanical failure on the Angeles Flight Railway resulted in one fatality and seven injuries; and we did so in 2004, when the air train at San Francisco Airport decided that they were not under our jurisdiction and we forced them to comply with filing a system safety program plan soon thereafter, but before they went into revenue service, they had an accident where two trains collided and cost \$3 million.

Let me skip to my recommendations. I apologize for being a bit over time here.

Our recommendations are the enforcement mechanisms. State safety oversight agencies must not be required to negotiate safety.

We should be required to undertake a good faith assessment of risk, but we must maintain our ability to make independent safety decisions and to enforce them.

Staffing issues have been talked about here. Adequate and qualified staff is hard to find. We could use the FTA or Federal Government to help us in paying for some of that. The training has been talked about before. Certainly, although there is a training system at the Transportation Safety Institute, we don't find that it goes far or wide enough.

Communications issues, I have talked about before.

Lastly, with the staffing levels at the FTA, we believe that they could use some more staff to help us in safety oversight.

I appreciate your time. Thank you.

Mr. PETRI. Thank you.

Ms. Love?

Ms. LOVE. Good afternoon, Mr. Chairman and members of the Subcommittee.

I am Duana Love, Division Manager of Oversight and Technology Development for the Regional Transportation Authority of Northeastern Illinois.

The Regional Transportation Authority was established in 1974 to ensure a fiscally sound, comprehensive, and coordinated public transportation system for Northeastern Illinois. The RTA accomplishes this by providing financial oversight and regional planning for the area's three public transit agencies: the Chicago Transit Authority, Metro Commuter Rail, and Pace Suburban Bus.

The Authority's involvement in the State Safety Oversight Program is mandated by the FTA's oversight rule and the RTA Act. The Illinois Legislature amended the RTA act to designate RTA as the oversight agency responsible for implementation of the rule. As defined, the rule requires rail safety oversight for any rail fixed guideway system that is not regulated by the Federal Railroad and is included in the FTA's calculation of fixed guideway route miles or intends to be. Mr. Chairman, since Metro Commuter Rail is regulated by the Federal Railroad Administration, the Chicago Transit Authority is the only agency in the Northeastern Illinois area that falls under the rule.

The Chicago Transit Authority operates eight heavy rail lines, including the new pink line service to O'Hare Airport that became operational in June of 2006. Each weekday, the CTA operates about 175,000 vehicle miles, serving over half a million riders.

The Authority's rail safety oversight program enforces the State Safety Oversight Rule. As program guidance, the RTA employs the System Safety Program standards and procedures to establish requirements to be implemented by the Chicago Transit Authority. The standard adopted by the board of directors in 1997 includes requirements for two key areas: first, safety practices to reduce the likelihood of unintentional events that may lead to death, injury, or property damage; and second, security practices to reduce intentional, wrongful, or criminal acts.

The Chicago Transit Authority safety personnel reports directly to the Office of the President. This effective reporting relationship provides a direct line of communication for addressing safety issues.

Mr. Chairman, the RTA is committed to a statutory oversight function that includes requiring and approving the investigation of major CTA accidents, conducting onsite triennial safety reviews, filing requisite reports to the FTA, and requiring and improving the annual internal safety audits. The RTA's oversight program, which occasionally uses consultants to augment investigations and audits, is wholly funded through our annual operating budget.

As you aware, there was a derailment on the Chicago Transit Authority rail system on July 11th, 2006, that resulted in the evacuation of nearly 1,000 passengers from a subway in downtown Chicago. The Authority extends our regrets to all of the passengers who were injured and inconvenienced. We also commend the CTA and the local emergency service agencies for handling the incident in a manner that resulted in no fatalities and timely restoration of service. That National Transportation Safety Board investigation is in progress.

The FTA's State Safety Oversight Program has been beneficial in establishing cooperative working relationships among the oversight agencies. Best practices and lessons learned are shared during annual meetings, conference calls, and workshops sponsored by the Federal Transit Administration. The Regional Transportation Authority is currently participating in the Accident Investigation and Performance Measures Work Groups convened by the FTA to address safety program issues.

The FTA program also enhances interagency coordination. On July 11th, 2006, a mass casualty incident training exercise was held with the Chicago Transit Authority and the City of Chicago Office of Emergency Management and Communications, and during that drill, agencies identified areas of improvement to ensure proper execution of standard operating procedures and communications protocols. The CTA is compiling a lessons learned report for submittal to the Department of Homeland Security.

The American Red Cross of Greater Chicago provides another example of interagency coordination. During major events, the Red Cross provides expanded disaster services by managing information on hospitalized passengers for their families. With the Red Cross serving such a vital role to the community, rail system operators and managers are available to focus on service restoration.

While such coordination opportunities are abundant, participation is often limited by resource constraints. Given the recent amendments to the State Safety Oversight Rule, an expanded commitment of resources is required by oversight agencies to ensure compliance. The FTA program could benefit from sustained Federal funding to support these ongoing oversight activities.

Mr. Chairman, again, thank you and the Subcommittee for inviting me to testify. We at the Regional Transportation Authority look forward to working with the FTA and other partner agencies to ensure the safety of our public transportation system. I appreciate the Subcommittee's commitment to the transit safety program, and I will be pleased to respond to any questions.

Mr. PETRI. Thank you.

Mr. Kraus?

Mr. KRAUS. Thank you, Mr. Chairman and members of the Committee. I want to thank you for the opportunity to address this Committee.

My name is Robert Kraus. I am a Rail Transit Safety Specialist for the Missouri Department of Transportation. I am the State Safety Oversight Program Manager for the State of Missouri. I have been the Program Manager for approximately seven years. My experience includes approximately 25 years associated with rail transportation and safety.

I have been certified as a Transit Safety Specialist by U.S. DOT, and I am certified by the World Safety Organization as a Safety Specialist in rail transportation. In addition, I am an Associate Instructor for the U.S. DOT Transportation Safety Institute of Oklahoma City where I teach accident investigation.

My primary responsibility in the State of Missouri with the Department of Transportation is state oversight of the MetroLink system. It operates by the Bi-State Development Agency in St. Louis, Missouri. MetroLink is a medium size light rail transit system totaling 38 miles of right of way with ridership approaching 16 million passengers a year.

Throughout the past seven years, State Oversight has developed a good working relationship with MetroLink. During that time, State Oversight and MetroLink have devised practical methods to achieve compliance with the requirements of Part 659 and the goals of the oversight program.

The Missouri State Oversight Program has evolved since first established in 1996. Missouri has taken a more proactive role in problem solving and in safety initiatives affecting the MetroLink system.

MetroLink's Safety Department, as well as its Rail Operation Department, consults with State Oversight for input or review when establishing new procedures or making changes to the MetroLink rulebook. Together, we have devised a corrective action process as well as a corrective action form to facilitate tracking of unresolved safety items. The process specifically identifies the action item and assigns responsibility to an individual within the organization.

The responsible person must come before the State Oversight and the MetroLink Safety Department and provide documentation or demonstrate that the corrective action is complete. If the corrective action meets the approval of the State Oversight, then the person responsible signs the form, verifying the completion. State Oversight and the MetroLink Safety Department also sign copies and copies are given to each party. Assigning individuals to the task has greatly improved our turnaround time to completion.

The original CFR Part 659 that took effect in 1997 introduced a nontraditional role, not only for many State-designated agencies but also for FTA. Implementation was somewhat awkward initially. State oversight agencies were uncertain of the interpretation of Part 659. While most States designated their DOTs, other States chose utility commissions or public safety agencies. Some States had considerable authority, not only to implement the program but to enforce it as well, while other State agencies had little or no regulatory power.

My contact with other program managers suggests that this disparity still exists between the oversight agencies with regard to their authority and respective options to ensure compliance. Similarly, the employee designated to serve as a State oversight program manager varied as well.

Most State agencies did not receive a budget to implement the program, and there were limited resources available from FTA. In many cases, as in Missouri, oversight duties were assigned to a current employee. Some States assigned individuals with experience in transportation safety or transit operations, while other State agencies simply had no option but to assign duties to the best candidate available.

In addition, the compliance aspect of the State Oversight Program was founded on the guidance of the American Public Transit Association and the APTA Manual for Development of Rail Transit System Program Plans. The manual was very beneficial to the State Oversight community. However, Part 659 referred to the APTA manual as a guideline, thus adding to the debate as to what constitutes compliance with the State Oversight Rule.

The State Oversight Program has matured. The new 49CFR 659 that went into effect this year more clearly defines the role of the State oversight agency and the requirements of the transit operator and structured the interaction between the State oversight agency and the rail transit operator. The rule also clearly lists the required contents of the System Safety Program Plan, making the review and approval process much easier.

As a representative of the State Oversight community, I must reflect on the needs and concerns expressed by my counterparts in other States to share with this Committee. Our needs include a core curriculum of training directed to State Oversight Program Managers to improve their skills, to provide a transit safety foundation, and offer guidance for administering the oversight program. FTA must continue support of the training made available through the Transportation Safety Institute or other qualified sources that reinforce the importance of safety and security in the rail industry.

Fatigue awareness has become an important issue within the State Oversight community. The hazard resolution process described in Part 659 does not easily lend itself to the corrective action process commonly used to address hazards. Some States have suggested that an Hours-of-Service requirement similar to other modes of transportation may be a positive step toward relieving our concerns associated with fatigue. Missouri's Hours-of-Service law has been in place since 1993.

From my perspective, the State Oversight Program is making a positive impact on rail transit safety. However, State programs need additional resources to keep pace with the expanding rail transit industry.

I am encouraged by the new leadership demonstrated by FTA's Office of Safety and Security and by the improvements contained in Part 659. The States and the State Oversight community have accepted our responsibility and stand with the FTA in its effort to improve transit rail safety and security.

Thank you, Mr. Chairman.

Mr. PETRI. Thank you.

Our last panelist, Mr. Robert Sedlock.

Mr. SEDLOCK. Chairman Petri, Ranking Member DeFazio, and members of the Subcommittee, thank you for the invitation to speak before you today on the topic of State safety oversight in transit.

On behalf of Governor Jon Corzine and Commissioner of Transportation Kris Kolluri, our State extends its appreciation for your interest in the State safety oversight program in New Jersey. We are also very grateful to Congressman LoBiondo and Congressman Pascrell for your leadership and strong commitment to transportation safety.

Finally, we are grateful for the FTA's State Safety Oversight Program because it incorporates structures for performance and accountability as well as an in-depth safety approach that may serve as a future model for other modes of transportation.

Our office at this time has oversight responsibilities for a variety of transit systems in the State: the New Jersey Transit Hudson Bergen Light Rail System which is a design-build-operate-maintain system; Newark City Subway which is an older facility and contains a major improvement and expansion—in fact, we just had an opening on Monday for a major extension—the Port Authority Transit Corporation, a high speed rail line and a bi-State transit system that operates between New Jersey south and Pennsylvania, which has a strong history of efficiency and is now in the process of recapitalizing its rolling stock; and the New Jersey RiverLine which is a design-build-operate-maintain system that operates partly on freight rail track.

The diversity of properties, operations, owners, operators, and other characteristics of these systems gave us pause in the development of our oversight efforts to assure that the requirements were workable within such diversity. The variety of properties and their locations also involves coordination and communication with various Federal agencies including FTA, FRA, and TSA through their national offices and through six regional Federal offices that interface with the transit systems in New Jersey, north and south.

As noted previously, a key accomplishment of the FTA State Safety Oversight Program is the structuring of accountability for the public safety. Our experience is that this has been particularly helpful in the context of the two design-build-operate-maintain light rail systems recently built in our State. Accountability is defined through the safety oversight process, and it is accorded to both the owner and operator of the transit system.

We also note that State safety oversight under the program has been very critical at early stages of the development of the rail transit system. Our experience has been that it is optimal to become involved early in the life cycle of a transit system in order that safety is in the forefront of the endeavor and system safety is incorporated in all phases of modernization or new construction projects. Early inclusion of system safety through the safety certification and oversight mechanisms clearly provides significant safety and economic benefits for the public and the transit agency.

Important challenges shared among the States are the resource needs associated with sustaining expertise, personnel retention, and ongoing training. System safety and safety oversight require a



very specialized approach which needs to be continuously emphasized to all personnel involved, whether at the oversight agency, the transit agency, the transit entity, operators, contractors, et cetera.

For some States, it is difficult to sustain adequate funding for this important, yet unfunded, Federal mandate. It is particularly difficult to provide adequately for succession of personnel, their training, and related costs.

Though there has been Federal assistance in the context of the establishment of safety oversight offices, under the New Starts Program, there is no sustained funding source for ongoing State safety oversight activities. This has led to disparity among the States in the levels and expertise of staffing in the oversight function. Though safety oversight is actually a bargain and minimal in relationship to the cost of transit operations, sustained, reliable, discreet funding under the Federal Surface Transportation Legislation is not provided for the States with respect to their safety oversight offices.

As part of the FTA's requirement for New Starts projects, funds are available for the startup and operation of the oversight agency through the commencement of revenue service. However, continuing transit safety oversight remains as an unfunded project, necessarily mandated and that requires adequate resources. Many States operate with a minimum staff, lean and mean, and must find operating funds from various offices or department as well as through invoicing transit agencies for services provided.

With reliable and sustained funding provided to the States, oversight agencies could move their programs from a priority-based environment to a task-oriented implementation effort. Thereby, more staff, greater expertise, and added performance would be available for this important function through funds-supported staffing and training.

Again, thank you for the opportunity to share our experiences before this Committee regarding the FTA State Safety Oversight Program. Thank you, Chairman.

Mr. PETRI. Thank you.

Mr. Pascrell?

Mr. PASCRELL. Thank you, Mr. Chairman.

Again, Mr. Sedlock, thank you for being here, and I extend this to your Commissioner as well as the Governor, and thank you for your service to your State.

We know that New Jersey has one of the most successful State safety oversight programs in the Country, but as you have mentioned, we have come a long way from the language and the dialogue of Federal mandate, Federal pay, which you remember was a mantra back here not too long ago. Now, we like to tell States what they have to do without providing the resources for you to do it. I thought I would sum up what you were basically telling us, communicating to us.

Your department is responsible for the oversight of a variety of transit properties in the State, ranging from the Hudson Bergen Light Rail System in the north to the New Jersey Transit RiverLine in the south, which is becoming more successful than when it first started. The diversity of properties and operations and

owners and operators and other characteristics of these systems presents quite a challenge to assure that the requirements are workable within such diversity. So, the coordination and communication with various Federal agencies including the FTA, the FRA, the TSA, as mentioned earlier, and through the national and regional offices is also involved.

With this complex task, tell us about the staffing and expertise requirements involved in the process? What resources are you looking for from the Federal Government to help you do this job?

Mr. SEDLOCK. At this point in time, we have two members as a staff for the State safety oversight program which requires my efforts at times seven days a week, depending on the priorities of the project. So we are limited in staffing.

There is a major coordination effort that is required now between the TSA and the safety oversight. In fact, we have underway meetings with the oversight.

When we do a three year safety review, we are looking at both safety and security. And so, to try to minimize duplication, there is coordination going on with TSA. Region I which is a New York office now for the city subway system is due now for a three year safety review. In the south, we have the PATCO system which is due for a three year safety review. Both audits will be performed during the same timeframe.

What we will do is coordinate with the TSA. There have been initial meetings with the inspector that will be involved from the New York office. When I get back in early next week, I will start coordination with the Philadelphia office for the PATCO system. The state of the audit is ready for award to a contractor and probably will take place within the next 30 days.

Mr. PASCRELL. Thank you, Mr. Sedlock, and thank you all for your service, and thank you all for being here.

Mr. Millar, you have been before this Committee many, many times and always provide us, and I hope you feel we are cooperating and trying to do the right thing.

Mr. Chairman?

Mr. PETRI. Mr. Carnahan, any questions?

Mr. CARNAHAN. Thank you all.

I want to direct a question to Mr. Kraus. You described in your testimony situations with fatigue awareness that have become important in the oversight community. I wanted you to describe a little more in detail about how the Missouri Hours-of-Service regulation has mitigated the concerns associated with fatigue.

Mr. KRAUS. We have a regulation with the State of Missouri that included the Hours-of-Service requirement when the MetroLink system went into operation in 1993. So, it was originated in, I believe, the Public Service Commission at that time.

The Hours-of-Service law, actually not confusing it with the Hours-of-Rest law as some of our discussions have been, it does limit the amount of time an operator can work. It requires a certain amount of time off between shifts, and there are checkmarks or checklists of things that they need to complete when they come back to duty to indicate on the roster that they have been off for a certain amount of time. It has been in effect, as I said, well, since 1993. I was talking to the Chief of Operations yesterday, and we

have been able to conduct business without it really interfering with the schedules and so forth.

Mr. CARNAHAN. Thank you.

Mr. PETRI. Thank you.

Mr. Millar, could you describe your organization's role as a standard setting organization in the context of rail transit safety?

Mr. MILLAR. Yes, sir.

APTA, for the last 10 years, has been setting standards for our industry. We use a consensus-based approach, that is, we bring the experts who are operating in the industry together to examine particular areas, be it equipment areas, be it safety practices, be it procedures for maintenance. What we are trying to do is identify the best practices that are available and come to agreement on how they should proceed. To formally adopt our standards, we use the approach that is adopted by the American National Standards Institute, the so-called ANSI approach to things. Basically, here what we are trying to do is get a balance of different interested parties, so that no one perspective can dominate in the development.

We use a public comment period to make sure that while the experts have done their best and brought the best information to the table, there may be other information that we need to have access to as we proceed. We have a very formal requirement to respond to each and every one of the comments that are brought into it, so things cannot be, shall we say, just allowed to fall off the table without careful consideration. We have an appeal procedure in place, so that if a participant in the process feels that his or her position has not been properly represented or considered, there can be an appeal.

We use a balloting process then across the industry, and we require a super majority. It is not a matter of 50 plus 1, but rather I believe it is two-thirds in most instances, a super ballot, again to try to arrive at the broadest consensus that we possibly can.

And, finally, our standard setting process requires a formal process to interpret rules and standards that are developed over time. You do the best you can when you are developing standard, but experience always teaches you more. So, there is a standard process that is used for developing these interpretations and a process for updating the standards.

It has worked very well for us. We have issued over 200 consensus standards that are now being widely implemented in the industry, and we believe it is part of what is allowing our industry to proceed and progress.

Mr. PETRI. Thank you.

Ms. Love, your agency oversees safety for the Chicago Public Transit Authority. Last week during evening rush hour, there was a train derailment and fire at the Park and Lake subway station in downtown Chicago. While there were no fatalities, two people were critically injured. As a State oversight agency, what is your responsibility when there is an accident and what procedures are in place?

Ms. LOVE. Yes, Mr. Chairman, the first interaction between us and the Chicago Transit Authority is upon notification. They are required to notify the RTA within two hours of occurrence. Once we are notified, we start to work. We are not a first responder, so we

are not racing to the scene in terms of that effort, but we start our coordination.

In this instance, we contacted the TSA. As has been stated, we have a liaison with the Rail Inspection Program. She was brought to the table and kept in the loop in terms of developments. In terms of a cooperative team, I communicate with the incident commander from the CTA who would be on-scene to determine what the severity of the incident is. Once we were able to rule out that it was not a terrorist event and understanding what it was that we were dealing with, the next priority is in the first response and getting everyone to safety before we can begin investigation and restoration of services.

Mr. PETRI. Thank you.

Mr. Clark, as you have pointed out, the California Public Utilities Commission has the largest and one of the oldest State safety oversight programs. What do you believe are the most important factors in establishing an effective State safety oversight program?

Mr. CLARK. I believe that the most important factors are that one must take a system safety approach. One must include inspections, investigations of accidents, and continual updating and revision of the rules as they apply and as time changes.

As I mentioned earlier, we have a 12 part process, and I will just go through that very quickly for you. We review and approve the System Safety Program Plans; review and approve the System Security Program Plans; review and approve hazmat management plans; we do triennial reviews which are critical; participate in the agency's internal safety audit processes which is quite time consuming but very valuable; review and approval of Safety Certification Plans for new construction for major projects; final review of safety certification prior to start of revenue service of any new system or major project; periodic inspection activities; participation in fire life safety activities and drills; review of accident investigations conducted by the transit agencies on behalf of the PUC; and then we conduct our own accident investigations in some places.

So it is a systems approach. We are involved very early in the planning and development of either the new program or the extension of the transit, and those are the key and critical elements, I believe.

Mr. PETRI. Thank you.

Mr. Kraus, the Missouri Department of Transportation actually oversees the transit safety of St. Louis Bi-State MetroLink system in coordination with an agency in an adjoining State, the St. Clair County Transit District in Chicago, Illinois. How do you manage to maintain consistent oversight with two different agencies sharing that responsibility?

Mr. KRAUS. Primarily, we have one system safety program standard that both of us have adopted, so that in the requirements for reporting, the only different is going to be a different telephone number for Illinois and for Missouri, but as far as the standard goes, it is the same on both sides of the river, so we don't have a discrepancy between what is required between the two different States.

Mr. PETRI. Thank you.

Mr. Sedlock, New Jersey's transit rail system has expanded significantly in the last 10 years with the recent openings of the Hudson Bergen Light Rail, the RiverLine, and the Newark City Subway extension that opened just a few days ago. Has the rail Safety Oversight Office of the New Jersey Department of Transportation grown as the system mileage and ridership under your authority has grown?

Mr. SEDLOCK. Unfortunately not, sir. We are limited in the staff. Unfortunately, the oversight agency is not growing. We are restrained because of funding. So it does place some burden on the staff, but we are able to keep up only because it is a dedicated force and if it takes working around the clock, we do that, sir.

Mr. PETRI. Mr. Pascrell?

Mr. PASCRELL. Yes, Ms. Love, I was interested in your saying that you are not a first responder as the Manager of Oversight and Technology of the Transportation Authority. Who is responsible for securing the scene of an underground accident?

Ms. LOVE. Primarily the CTA in their cooperation with the Chicago Police and the Chicago Fire Department.

Mr. PASCRELL. And the Chicago Transit Authority?

Ms. LOVE. Yes.

Mr. PASCRELL. You don't work for the Chicago Transit Authority?

Ms. LOVE. I do not. I am a representative of the Regional Transportation Authority.

Mr. PASCRELL. So you are on the regional board. The CTA would secure the accident site?

Ms. LOVE. Yes.

Mr. PASCRELL. Then you would go to the accident site and do what?

Ms. LOVE. Our activities are mostly for oversight and monitoring. So when I interface with that team that is responding to the incident, I am making sure they are following all the appropriate protocols and communications that have been established, and that everything we have in place in terms of our safety standard is actually effective.

Mr. PASCRELL. Homeland Security just came back from London and Madrid, and one of the major problems we were talking about over there is sometimes the problems that exist in securing the scene and still trying to get people out of the scene. This is a very serious situation, and I hope there is thought given on a regional basis as well as the Chicago Transit Authority because that may be the difference between discovering what the problem is and who is responsible for it, whether it is man-made or simply an accident. Securing of that accident is very critical.

Thank you. Thank you, Mr. Chairman.

Mr. PETRI. Thank you. Thank you all for your testimony and your responses to the questions.

This hearing is adjourned.

[Whereupon, at 3:50 p.m., the subcommittee was adjourned.]



**OPENING STATEMENT OF  
THE HONORABLE RUSS CARNAHAN (MO-03)  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
SUBCOMMITTEE ON HIGHWAYS, TRANSIT AND PIPELINES  
U.S. HOUSE OF REPRESENTATIVES**

**Hearing on  
*State Safety Oversight Program***

**Wednesday, July 19, 2006, 2:00 PM  
2167 Rayburn House Office Building**

Mr. Chairman and Mr. Ranking Member, thank you for hosting this important hearing. I am pleased that Mr. Kraus, the Manager of Missouri's Safety Oversight Program is here with us today. Mr. Kraus, welcome to our subcommittee hearing.

Mr. Kraus' primary responsibility is safety oversight of the MetroLink light rail system operated in my congressional district in St. Louis, Missouri. We are proud that MetroLink is an expanding system, recently opening new stations and boasting an increased ridership of 9% from last year.

The State Safety Oversight program is a Federal Transit Administration entity that oversees safety for non-commuter rail systems, instead including transit such as subways, streetcars and monorails. Under the program, individual states designate an agency responsible for monitoring safety. Since these state agencies are tasked with investigating accidents and maintaining safety, the federal government does not enforce compliance with regards to this program.

Thank you all for taking time out of your busy schedules to share your views on the State Safety Oversight Program – your testimony will aid us greatly.

###



Testimony of Richard W. Clark  
Before the  
Highways, Transit, and Pipelines Subcommittee  
United States House of Representatives  
Transit Safety: the Federal Transit Administration's State Safety Oversight Program  
July 19, 2006

Chairman Petri and members of the Committee, I am pleased to have the opportunity today to come before you and discuss transit safety and the Federal Transit Administration's state safety oversight program. My name is Richard W. Clark, and I am Director of the Consumer Protection and Safety Division of the California Public Utilities Commission.

#### **California Public Utilities Commission**

In 1911, the California Public Utilities Commission (CPUC) was established by Constitutional Amendment as the Railroad Commission. In 1912, the Legislature passed the Public Utilities Act, expanding the Commission's regulatory authority to include natural gas, electric, telephone, and water companies as well as railroads and marine transportation Companies. In 1946, the Commission was renamed the California Public Utilities Commission.

The Governor appoints the five Commissioners, who must be confirmed by the Senate, for six year staggered terms. The Governor appoints one of the five to serve as Commission President. The current Commission President is Michael Peevey with Geoffrey Brown, Dian M. Grueneich, John Bohn, and Rachelle Chong filling the remaining Commissioner positions.

The CPUC employs economists, engineers, administrative law judges, accountants, lawyers, and safety and transportation specialists. The Commission is currently organized into several advisory units, an enforcement division, and a strategic planning group. The Division of Ratepayer Advocates is an independent arm of the CPUC that represents consumers in Commission proceedings, pursuant to statute. The Commission also has a Public Advisor who assists the public in participating in Commission proceedings, and a unit that is charged with informally resolving consumer complaints.

#### **CPUC Oversight of Rail Fixed Guideway Systems**

The California Public Utilities Commission has been responsible for safety oversight of railroads, street railroads and other forms of passenger transport by rail since the creation of the California Railroad Commission in 1912.

During the design and construction of the Bay Area Rapid Transit (BART) system in the 1960s, the Commission created a separate "BART Safety Unit" utilizing its railroad operations safety staff,

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engineering specialists and train control engineering consultants. The BART unit eventually became the BART Section and subsequently, the Rail Transit Safety Section (RTSS). The Commission addressed BART design; construction and operational safety issues through issuance of specific Decisions.

The 1970's ushered in a renewed interest in public rail transit systems. In response, Public Utilities Code Section 99152 was adopted in 1978 giving the Commission specific jurisdiction and responsibility for the safety oversight of public transit guideways planned, acquired or constructed on or after January 1, 1979. This code section was amended in 1986 directing the Commission to, "develop an oversight program employing safety planning criteria, guidelines, safety standards, and safety procedures to be met by operators in the design, construction, and operation of those guideways . . ."

Herein began California's established State Safety Oversight Plan for rail transit projects, extensions, capital improvement projects, vehicle procurements, and maintenance and operations oversight. The plan identified the applicable State of California General Orders; document submittals, including contractual drawings, operations rules, standard operating procedures, etc.; witness points to provide field tests of equipments, safety devices, etc.; and inspection requirements of structures such as track, signal, switch, emergency walkways, grade crossing, overhead catenary system clearances, etc. State of California General Orders are an integral part of the CPUC oversight program, mandating minimum requirements, are specified in the following:

- General Order 143-B, Safety Rules and Regulations Governing Light Transit, original implementation date June 27, 1978
- General Order 127, Rules for Maintenance and Operation of Automatic Train Control Systems—Rapid Transit Systems, original implementation date August 15, 1967.
- General Order 75-C, Rules for Grade Crossing Equipment, original implementation February 14, 1973
- General Order 88-B, Rules for Altering Public Highway Rail Crossings, original implementation February 14, 1973
- General Order 95, Regulations Governing the Rules for Overhead Electric Line Construction (e.g. Catenary System), original implementation July 1, 1942
- General Order 26-D, Regulations Governing Clearance on Railroads and Street Railroads with Reference to Side and Overhead Structures, Parallel tracks, Crossings, and Public Roads, Highways, and Streets, original implementation date February 1, 1948. This General Order applies to joint-usage or shared track railroads such as San Diego trolley, Inc. and other rail transit systems not specifically excluded from its requirements.
- General Order 164-C, Rules and Regulations Governing State Safety Oversight of Fixed Guideway Systems, original implementation September 27, 1996.

Subsequent to the adoption of Section 3029 of the Intermodal Surface Transportation efficiency Act (ISTEA) of 1991, which requires each state to develop and implement safety plans for all fixed guideway transit systems, Governor Pete Wilson designated the CPUC on October 13, 1992 as the agency responsible for ensuring California compliance with that Section.



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### **Introduction of Federal Transit Administration**

On December 29, 1995, the Federal Transit Administration (FTA) issued 49 Code of Federal Regulations Part 659, Rail Fixed Guideway Systems: State Safety Oversight. The Rule required States to oversee the safety of rail fixed guideway systems through a designated oversight agency. The Governor designation of the CPUC fulfilled this requirement. This rule was revised by the Federal Transit Administration, effective May 1, 2006.

### **CPUC Rail Transit Safety Section**

The CPUC Rail Transit Safety Section is charged with responsibility for safety oversight of rail fixed guideway systems. The organizational structure includes a Program Manager, Program and Project Supervisor, two Senior Utility Engineer Supervisors, Senior Transportation Operations Supervisor, and nine Utility Engineers. All utility engineers are required to have a minimum education requirement of a Bachelor of Science Degree in an engineering discipline. Transportation Operations Supervisors have a minimum experience requirement in rail transportation.

### **Funding Source for Rail Transit Safety Oversight**

The California general funds are the source of funding for the CPUC Rail Transit Safety Section, with the specific monies derived from the current State gasoline tax. No other source of funding to support the state safety oversight program is available at this time. The fiscal year 2005 budget for state safety oversight of fixed guideway systems included approximately 1.6 million dollars.

### **State Safety Oversight Activities**

CPUC oversight includes the safety and security regulation of six major rail transit agencies that encompass 650 route miles, with year 2005 ridership exceeding 275 million passengers:

- Bay Area Rapid Transit District (BART), began revenue service in early 1970s
- Los Angeles Metropolitan Transportation Authority (LACMTA), Blue Line began revenue service in 1990
- Sacramento Regional Transit District (SRTD), began revenue service in 1987
- San Diego Trolley Inc (SDTI), began revenue service in 1981
- Santa Clara Valley Transit Authority (VTA), began revenue service in 1987
- San Francisco Municipal Railroad (MUNI), began revenue service in 1912

Additionally, CPUC oversight includes four transit agencies that do not have oversight mandated by the Federal Transit Administration:

- San Francisco Airport Peoplemover (Air Tran), connection to BART, began revenue service in 2004
- San Pedro Red Cars (POLA), began revenue service in 2003
- Los Angeles Farmer's Market Trolley, began revenue service in 2003
- Angles Flight Railway Company, funicular system in Los Angeles, began revenue service in 1996, however, CPUC ordered closure February 1, 2001 due to accident

One additional system is under construction with an expected revenue service date of December 2007:

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- North County Transit District (NCTD) light rail (Sprinter), under construction in San Diego County

Lastly, nine major projects in varying stages of construction and preliminary engineering are currently embedded in the safety certification process of the CPUC. Rail Transit Systems are virtually in a perpetual state of acquisition as new equipment is purchased and system expansions are designed and constructed to fulfill the rapidly growing need for mass public transportation. All modifications and system rehabilitations require constant design and procurement efforts. Coordination and compatibility with the existing system, construction efforts under operating conditions, testing, and break-in phases must all be managed as part of the ongoing system safety effort.

CPUC safety oversight of rail transit agencies has broad horizons and encompasses elements of design, construction, maintenance, and operation of those systems. There are eleven major elements contained in the safety oversight plan:

- Review and approval of system safety program plans
- Review and approval of system security program plans
- Review and approval of hazard management plans
- Triennial Reviews
- Participation in agencies' internal safety audit process
- Review and approval of safety certification plans for new construction and major projects
- Final review of safety certification prior to start of revenue service of any new system or major project
- Periodic inspection activities
- Participation in fire life safety activities and drills
- Review of accident investigations conducted by transit agencies on behalf of CPUC
- Accident investigations

#### **Impact of CPUC Safety Oversight of Rail Transit Agencies**

CPUC safety oversight of these rail transit agencies is an integral part of the overall safety of those systems. Major accidents have been kept to a minimum on these systems, with only two severe accidents resulting in CPUC taking action to suspend revenue service in the history of State oversight.

In 1979 a fire occurred in the Bay Area Rapid Transit (BART) trans-bay tube resulting in one fatality, several injuries and considerable disruption of commuter transportation between San Francisco and the East Bay. The Commission ordered BART to suspend passenger service until completion of an investigation and the implementation of approved safety mitigation efforts. Subsequently, additional studies and evaluations of BART fire/life safety issues were ordered by the Commission. These efforts led to numerous safety improvements on the BART system and established standards that were adopted by the rail transit industry.

The second severe accident occurred in 2001 when a mechanical failure on the Angeles Flight Railway Company occurred, resulting in one fatality and seven injuries. The Commission ordered closure of this system and to date this system is still closed and will remain closed until such time approved safety mitigation efforts have been implemented.

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San Francisco Municipal Railroad (MUNI) was brought under the umbrella of CPUC safety oversight in 1997. During the time period between 1997 and 2005, MUNI has reported an 87 percent drop in rail transit collisions. Generic statewide statistics of rail transit accidents during the time period between 1997 and 2005 indicate an overall reduction in crossing collisions of 76 percent, reduction in derailments of 84 percent, and reduction in serious injuries of 75 percent. However, fatalities during this same time period increased by 12.5 percent.

One major advantage enjoyed by a safety oversight program is the detachment from the budgetary restrictions that apply to transit agencies. In contrast, transit agencies have budgetary and operational restrictions when considering safety improvements. Similarly, political dynamics are at times an insurmountable force for transit agency safety departments when applying for safety funding. Transit agencies are public entities governed by a board of directors, generally appointed by mayors and/or city council members with strong ties and commitments to communities. Conversely, the CPUC focus is directed solely towards public safety and the regulatory power embedded therein can swing the pendulum in the direction of safety. The CPUC regularly recommends practices of lessons learned from one transit agency to another. Experience has also illustrated instances wherein transit agency safety departments enjoy CPUC leverage in their dealings with maintenance and operational departments to implement recommended safety measures.

Lastly, but not least important, is the nationwide consistency that is enjoyed through a formal state oversight safety and security program administered by a Federal agency and the continued focus on safety and security fostered by such a plan.

### **Challenges to State Safety Oversight**

As a regulatory body, the California Public Utilities Commission must conform to strict rules and procedures. While as a whole this adds credence to the program, the process is laborious. For example, after the final revision to 49 Code of Federal Regulations Part 659, Rail Fixed Guideway Systems: State Safety Oversight, was issued April 29, 2005 with an effective date of May 1, 2006, CPUC immediately took action to revise State General Order 164-C, Rules and Regulations Governing State Safety Oversight of Fixed Guideway Systems to incorporate those revisions into the State regulations.

General Order 164-C is the State counterpart to 49 Code of Federal Regulations Part 659 that sets forth the requirements for all rail fixed guideway systems in the State, mandating the methodology in which California will comply with the 49 Code of Federal Regulations Part 659.

The process in which a State General Order is revised and formally adopted follows a transparent, publicly accessible, and democratic process where a spirit of open communication and cooperation is fostered amongst the communities, rail transit agencies, and the CPUC. Once the proposed revisions were drafted, communities and rail transit agencies were afforded a 30 day comment period. Additionally, CPUC staff held meetings with each rail transit agency to solicit comments and concerns with the revision and to answer questions. Comments were considered and melded into the rule revision and a final workshop was conducted in an attempt to reconcile any remaining differences in opinion.

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While the effective date of the revised 49 CFR Part 659 is May 1, 2006, California has yet to formalize the corresponding General Order revision due to irreconcilable issues pertaining to confidentiality of transit agency records. 49 Code of Federal Regulations Part 659, § 659.11, Confidentiality of Investigation Reports and Security, does provide verbiage to preclude investigation reports from being discoverable and that security plans are not made available for the public. However, the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law No. 104-231, 110 Stat. 3048 and the California Public Records Act, Title 1, Division 7, Chapter 3.5 of the Government Code § 6250-6270, supersede this regulation. Consequently, an Order Instituting Rulemaking has been initiated wherein all parties will come forward and offer testimony to the Commission for final resolution of differences. However, to adequately address the confidentiality issues in protecting investigative reports from becoming discoverable in civil proceedings, both Federal and State laws will need to be revised.

Another challenge with the 49 Code of Federal Regulations Part 659 lies within the verbiage found in § 659.35 Investigations. This section provides that state oversight agencies may allow rail transit agencies to conduct accident investigations on their behalf. However, in the event of dissent to the findings, the state has only two options: 1) conduct its own investigation, or 2) "... negotiate with the rail transit agency until a resolution on the findings is reached." Similar verbiage is found in §659.37 Corrective Action Plans wherein paragraph (d) states, "The oversight agency must establish a process to resolve disputes between itself and the rail transit agency resulting from the development or enforcement of a corrective action plan."

As illustrated above in the California rulemaking process, democracy is upheld within the organization of the CPUC. However, safety is not negotiable and state oversight agencies should not be held responsible to negotiate or resolve disputes on matters pertaining to safety, but should be vested with the authority to consider comments and subsequently make decisions and enforce those decisions.

Accident investigation findings of the National Transportation Safety Board (NTSB) are also addressed in §659.37 Corrective action plans. However, again, the state oversight agency is charged to:

"... identify the process by which findings from an NTSB accident investigation will be evaluated to determine whether or not a corrective action plan should be developed by either the oversight agency or rail transit agency to address NTSB findings."

This language places the state oversight agency in the precarious position as an extension of the NTSB who has no statute authority to impose its recommendations.

Adequate and qualified staffing of state oversight agencies continues to be a huge challenge facing the states, with local funding being the primary source to support the effort. The challenges of the available candidates in the job market further increase the burden. The prerequisite requirement of CPUC for Rail Transit Safety Section employees to have minimum requirements further reduces the available candidates for hire. It is also common for state employees to be lured to private industry or other governmental agencies by more attractive salary and benefit packages. However, it is believed that the minimum requirements are necessary in order to successfully fulfill the role of safety and security oversight.

Currently there are no training programs or defined curriculum for state safety oversight and, therefore, states must rely upon hiring prerequisites, peer training, and solicit industrial training from rail transit agencies. The Federal Transit Administration has an alliance with the Transportation Safety Institute for developing training classes. However, there is no curriculum or specific classes designed for state safety

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oversight. Furthermore, classes are frequently cancelled or space is not available as they are hosted by the rail transit agencies.

States bear the burden of funding for the training of its employees, including tuition and travel expenses. Conversely, other Federal organizations such as the Federal Railroad Administration and the Office of Pipeline Safety have developed programs that embrace State counterparts and provide training and funds for that training as a method to ensure consistency in program implementation and enforcement.

Mention should be made of the Federal Transit Administration's effort in June of this year wherein all state oversight agencies were invited to attend a workshop designed to review and critique initial submissions as required by 49 Code of Regulations Part 659, Rail Fixed Guideway Systems: State Safety Oversight. While the workshop was a precedence making event and did afford an opportunity for learning, the workshop was needed several months prior to the due date of May 1, 2006 for the initial submissions, especially considering the wide-sweeping changes encompassed in the Rule. The state oversight community, as a whole, has expressed a vital need for frequent interaction with the Federal Transit Administration and has requested more meaningful workshops designed to facilitate a better understanding of the responsibilities with which state safety oversight organizations have recently been charged.

The Federal Transit Administration has historically held only one annual workshop to which both state oversight agencies and transit agencies are invited, along with representatives from the American Public Transportation Authority (APTA) and other agencies. The workshops are generally of value. However, the attendance ratio of transit agency representation to state oversight representation is heavy weighted on the side of the transit agencies and, therefore, the dominant voice is that of the transit agencies. The state community has requested that the Federal Transit Administration reserve at least one full day of the upcoming annual workshop in September 2006 solely for state oversight agency attendance and to consider at least one additional workshop annually with only state oversight agency participation.

The current staffing level of safety personnel within the Federal Transit Administration (FTA) is also of concern to the States. For example, the role of program manager in the FTA Office of Safety and Security designated to lead the state oversight program was vacant for approximately one year, with that position being filled in March 2006. The impact was felt by the state community in development of the mandated state safety oversight plans and in the pre-rulemaking process. Furthermore, the preponderance of the Federal Transit Administration staff is allocated to administering the Federal grant program and not specifically to safety and security oversight.

The greatest challenge of the state oversight program lies in enforcement of rules and regulations. The only provision for enforcement at the Federal level lies within 49 Code of Regulations Part 659, Rail Fixed Guideway Systems: State Safety Oversight, § 659.7 Withholding of funds for noncompliance, as follows:

"... the FTA may withhold up to five percent of the amount to be distributed to any state or affected urbanized area in such state under FTA's formula program for urbanized areas, if:

- (1) The state in the previous fiscal year has not met the requirements of this part; and
- (2) The Administrator determines that the state is not making adequate efforts to comply with this part.

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(b) The Administrator may agree to restore withheld formula funds, if compliance is achieved with two years (See 49 U.S.C. 5330)"

California in designating the Public Utilities Commission as the State Oversight Agency has added a certain amount of regulatory empowerment to the program, but those states with other types of designations do not have such authority. The provisions of § 659.7 if implemented could have far reaching impact on the public transportation systems. Furthermore, the withholding of funds is only applicable to a state as a whole, and not levied towards an egregious entity or agency.

It is the heartfelt opinion of the state communities that additional enforcement mechanisms should be developed to ascertain safety and security programs and their corresponding rules and regulations are complied with. Those mechanisms should mirror authorities granted to the Federal Railroad Administration and allow for emergency orders, defect citations, and/or civil penalties, without preempting statue authority.

#### **Rail Fixed Guideway System Security**

By the very nature of design, the Nation's rail transit industry security is in the forefront of security concerns and is also addressed in 49 Code of Regulations Part 659, Rail Fixed Guideway Systems: State Safety Oversight, § 659.21 System security plan: general requirements and § 659.23 System security plan: contents.

In recognition of the threat, CPUC has designated one full time employee to head up the security aspect of the state safety oversight program. However, it will take approximately 18 months to hire and train a candidate. Challenges lie within prerequisites for hiring, training, and background check and security clearance. Existing staff does not have experience or training in security, risk management, or law enforcement, nor are they required to undergo background checks. Being that this is virgin territory for state safety oversight, there is uncertainty on the proper course of action and how the multitude of State and Federal agencies will interact and go forward with this immense challenge.

To further complicate the issue, the Aviation and Transportation Security Act gave the Transportation Security Administration (TSA) authority over all transportation modes, including the authority to issue regulations. TSA has to date predominately focused on airport security and is still defining the role and responsibilities of its rail security inspectors as they go forward in this endeavor. Also, the Department of Homeland Security along with the Office of Grants and Training is actively involved in supporting rail transit security. However, only recently has either of these organizations made efforts to establish relationships and partnerships with state oversight agencies.

The 49 Code of Regulations Part 659, Rail Fixed Guideway Systems: State Safety Oversight, has assigned responsibility to state oversight agencies to require rail transit agencies to implement a system security plan and to approve that plan. However, the guidance in those sections is general and vague. Furthermore, there are no provisions for training, background checks, or security clearances for state personnel charged with these responsibilities in the Rule. Without these provisions, by the very nature of security, it is only logical that rail transit agencies and other State and Federal agencies are tentative at the least in developing cooperative working relationships.

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Outreach is being made by the Federal Transit Administration to build partnerships with TSA and the state oversight community. A three-day workshop was held in San Francisco in June 2006 with representation from FTA, CPUC, and TSA at the table to develop and draft a plan whereby the assets of each group can be pooled to accomplish the tasks outlined in the Rule. However, we cannot place enough emphasis on the need for communication and partnership to accomplish the goal and minimize duplication of work effort to efficiently utilize the minimal resources available.

Optimally, as the Federal Transit Administration prepares to enter into pre-rulemaking to encompass provisions outlined in 119 Stat. 1144 Public Law 109-59, Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU), a more clear direction will be established for state oversight responsibility and interaction between TSA.

### Conclusion

Without a doubt, the State Safety Oversight Program of rail fixed guideway systems is a vital piece of National safety and security. The foundation of the program provides a consistent structure to assure the public that these systems remain the safest means of transportation in the nation regardless of state lines. However, a more solidified partnership between Federal and State agencies and rail fixed guideway systems must be forged to continue forward momentum. The description of the roles of the various lead agencies must adequately communicate their respective responsibilities, authorities, and limitations. The division of labor, responsibility, and authority must be appropriate to fulfill the tasks.

Vital to the achievement of nationwide safety and security in rail fixed guideway systems is training of the agencies designated to oversee safety and security of those systems. The Federal Transit Administration should develop an appropriate training curriculum for state oversight agencies, including courses on methods to conduct state oversight.

Enhanced enforcement mechanisms must be created to guarantee compliance with both 49 Code of Regulations Part 659, Rail Fixed Guideway Systems: State Safety Oversight and the State Safety Oversight Plans implemented by each individual State in addition to the existing provisions of § 659.7 Withholding of funds for noncompliance. Rules and regulation without consequences or penalty for noncompliance are a frivolous effort.

As SAFETEA-LU is incorporated into 49 Code of Regulations Part 659, Rail Fixed Guideway Systems: State Safety Oversight, clarification of roles and responsibilities and interaction amongst various agencies should be included. More guidance for security plans, risk assessment, and threat vulnerability assessment is needed from the FTA. More training and tools to achieve and maintain those goals must be accomplished.

Staffing requirements of both the Federal Transit Administration and the State Oversight Agencies is of major concern. 49 Code of Regulations Part 659, Rail Fixed Guideway Systems: State Safety Oversight, mandates quite a menu of activities and responsibilities, but provides no guidance on the structure or staffing of those designees charged with that responsibility. Furthermore, the FTA Office of Safety and Security is minimally staffed and is therefore limited in its ability to provide guidance to State Oversight Agencies.

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Furthermore, a funding mechanism should be attached to 49 Code of Regulations Part 659, Rail Fixed Guideway Systems: State Safety Oversight to allow continued low rail transit accident rates as public transportation passenger trips increase. Enhanced funding would empower state oversight agencies to develop and maintain superior oversight practices and continue with high levels of safety and security for transit. Funding for the mandates in the Rule would foster a unified front between the Federal Transit Administration and the state oversight community to embrace safety; enforce safety; and go forward through safety and security innovation.

There is much work to be done in the quest for excellence in rail fixed guideway system safety and security and we will continue those endeavors passionately. We will continue efforts to systematically strategize to maximize resources and efforts in safety and security of rail transit. Consideration of the enhancements outlined in this testimony to further propel the program is greatly appreciated.

Mr. Chairman, I appreciate the opportunity to come before you today and provide testimony on these issues. I ask for the continued support of the Subcommittee as we pursue this work, and I again offer assistance as the Subcommittee considers important rail fixed guideway system safety and security issues. Thank you.

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For more information on California Public Utilities Commission, visit our web site at:  
<http://www.cpuc.ca.gov/>

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Robert Kraus  
Rail Transit Safety Specialist  
Missouri Department of Transportation  
& State Safety Oversight

Mr. Chairman, members of the Committee:

Thank you for the opportunity to address the committee.

My name is Robert Kraus; I am a Rail Transit Safety Specialist for the Missouri Department of Transportation. I am the State Safety Oversight Program Manager for Missouri. I have been the program manager for the past 7 years.

My experience includes approximately 25 years associated with rail transportation and safety. I have been certified as a transit safety specialist by USDOT, and am certified by the World Safety Organization as a Safety Specialist in Rail Transportation. In addition I am an associate instructor for the USDOT Transportation Safety Institute of Oklahoma City where I teach Rail Incident Investigation

My primary responsibility within the Missouri Department of Transportation is safety oversight of the MetroLink system operated by the Bi-State Development Agency in St Louis, Missouri. Metrolink is a medium size light rail transit system totaling 38 miles of right of way with ridership approaching 16 million passenger trips yearly. MetroLink is extending its operation an additional eight miles to offer service west and south of the original alignment.

Missouri statutes give MoDOT the authority to regulate the safety aspects of any light rail system in the state. The Missouri State Safety Oversight Program Standard, which governs rail fixed guideway systems, is published as an Administrative Rule by Missouri's Secretary of State and gives further guidance to the light rail system.

Throughout the past seven years, state oversight has developed a good working relationship with Metrolink. During that time, State Oversight and MetroLink devised practical methods to achieve compliance with the requirements of Part 659 and the goals of the State Oversight program.

Missouri's State Oversight Program has evolved since first established in 1996. Missouri has taken a more proactive role in problem solving and in safety initiatives affecting the MetroLink system. MetroLink's Safety Department as well as its Rail Operations Department consults with State Oversight for input or review when establishing new procedures or making changes to the MetroLink Rulebook.

MetroLink's safety department and State Oversight have worked together to address hazards on the system. The State Oversight Program's hazard identification and analysis process has at times revealed unsafe conditions that when presented to MetroLink management led to systematic changes in MetroLink's design criteria. A case in point, when we found that bump posts at the end of the original alignment were underrated for the speed attained at the

location, the bump posts were upgraded and the speed command circuitry on the light rail vehicle was reprogrammed to limit the train speed, thus reducing the possibility of a serious impact.

Together we have devised a Corrective Action process as well as a Corrective Action form to facilitate tracking unresolved safety items. The process specifically identifies the action item and assigns responsibility to an individual within the organization. The responsible person must come before State Oversight and the MetroLink Safety Department and provide documentation or demonstrate that the corrective action is complete. If the corrective action meets the approval of State Oversight, then the person responsible signs the form verifying the completion. State Oversight and the MetroLink Safety Department also signs and copies are given to each party. Assigning individuals to the task has greatly improved turnaround time to completion.

#### State Implementation

The original 49CFR Part 659 that took effect in 1996, introduced a non-traditional role not only for many of the State designated agencies but also for FTA. Implementation was somewhat awkward initially. State Oversight agencies were uncertain of their interpretation of Part 659. While most state's designated their DOT, others chose utility commissions or public safety agencies. Some states had considerable authority not only to implement the program but to enforce it as well, while other state agencies had little or no regulatory power. My contact with other program managers suggests that the disparity still exists between oversight agencies with regard to their authority and respective options to ensure compliance.

Similarly, the employee designated to serve as the State Oversight Program Manager varied as well. Most state agencies did not receive a budget to implement the program and there were limited resources available from FTA. In many cases, as in Missouri, oversight duties were assigned to a current employee. Some states assigned individuals with experience in transportation safety or transit operations; other state agencies simply had no option but to assign the duties to the best candidate available.

In addition, the compliance aspect of the State Oversight Program was founded on the guidance of the American Public Transit Association, the (APTA) Manual for the Development of Rail Transit System Program Plans. The Manual was very beneficial to the State Oversight community. However, Part 659 referred to the APTA Manual as a "**guideline**" thus adding to the debate as to what constitutes compliance with the State Safety Oversight rule.

The State Safety Oversight Program has matured. The new 49CFR Part 659 that went into effect this year more clearly defines the role of the State Oversight Agency, the requirements of the transit operator and structured the interaction

between the State Oversight Agency and the light rail transit operator. The rule also clearly lists the required contents of the System Safety Program Plan, making the review and approval process a much easier task.

As a representative of the State Safety Oversight Community, I must reflect the needs and concerns expressed by my counterparts in other states, to share with this committee.

Our needs include a core curriculum of training directed to State Oversight program managers to improve skill levels, provide a transit safety foundation and offer guidance for administering the oversight program. FTA must continue to support the training made available from the Transportation Safety Institute or other qualified sources that reinforce the importance of safety and security in the rail transit industry.

Fatigue awareness has become an important issue within the State Oversight community. The hazard resolution process described in Part 659 does not easily lend itself to the corrective action process commonly used to address hazards. Some states have suggested that an Hour-of-Service requirement similar to other transportation modes may be a positive step toward relieving our concerns associated with fatigue. Missouri has an Hours-of-Service regulation for rail transit, which has been in place since 1993.

From my perspective, the State Safety Oversight Program is making a positive impact on rail transit safety. However, state programs need additional resources to keep pace with the expanding rail transit industry. I am encouraged by the new leadership demonstrated by FTA's Office of Safety and Security and by the improvements contained in Part 659.

The states and the State Safety Oversight community have accepted our responsibility and stand with the FTA in the effort to improve rail transit safety and security.

**TESTIMONY OF**  
**DUANA A. LOVE, P.E.**  
**DIVISION MANAGER, OVERSIGHT AND TECHNOLOGY DEVELOPMENT**  
**FOR THE**  
**NORTHEASTERN ILLINOIS REGIONAL TRANSPORTATION AUTHORITY**  
**BEFORE THE**  
**SUBCOMMITTEE ON HIGHWAYS, TRANSIT AND PIPELINES**  
**OF THE**  
**HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE**  
**ON**  
**TRANSIT SAFETY: THE FEDERAL TRANSIT ADMINISTRATION'S**  
**STATE SAFETY OVERSIGHT PROGRAM**

**JULY 17, 2006**

**SUBMITTED BY**



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*The RTA is the financial oversight and regional planning body for the three public transit operations in northeastern Illinois: The Chicago Transit Authority (CTA), Metra commuter rail and Pace suburban bus and paratransit provider. For more information, visit [www.rtachicago.org](http://www.rtachicago.org) and [www.movingbeyondcongestion.org](http://www.movingbeyondcongestion.org).*

Good afternoon, Mr. Chairman, and Members of the Subcommittee. I am, Duana Love of the Regional Transportation Authority of Northeastern Illinois, and I am pleased to have this opportunity to provide testimony.

#### **Overview**

The Regional Transportation Authority (RTA) was established in 1974 to ensure financially sound, comprehensive, and coordinated public transportation for northeastern Illinois. The RTA accomplishes this by providing financial oversight and regional planning for the area's three public transit operators: the Chicago Transit Authority (CTA), Metra commuter rail, and Pace suburban bus. Together, this rapid transit, commuter rail, and city and suburban bus network constitutes the second largest transit system in the United States with nearly 600 million rides per year.

The RTA region spans approximately 3,700 square miles including nearly 900 miles of railroad track. The six county region includes the City of Chicago, 272 municipalities and the counties of Cook, DuPage, Lake, McHenry, Kane and Will. The extensive RTA bus and rail network shares multimodal operations along more than 24 thousand miles of interstate highways, freeways, and arterials.

The RTA's involvement in the State Safety Oversight (SSO) Program is mandated by the Federal Transit Administration (49 CFR Part 659) State Safety Oversight Rule ("the Rule") and the RTA Act. The Illinois Legislature amended the RTA Act (70 ILCS 3615/2.11) to designate the RTA as the oversight agency responsible for implementing and administering the SSO Rule. The Rule requires rail safety oversight of any rail fixed guideway system that:

1. Is not regulated by the Federal Railroad Administration, and
2. Is included in FTA's calculation of fixed guideway route miles or receives funding under FTA's formula program for urbanized areas (49 U.S.C. 5336);  
or
3. Has submitted documentation to FTA indicating its intent to be included in FTA's calculation of fixed guideway route miles to receive funding under FTA's formula program for urbanized areas (49 U.S.C. 5336).

Mr. Chairman, since Metra Commuter Rail is regulated by the Federal Railroad Administration (FRA), the Chicago Transit Authority (CTA) is the only rail transit agency in northeastern Illinois that falls under the Rule.

The Chicago Transit Authority (CTA) operates seven (7) Rail Lines, (Red, Purple, Yellow, Blue, Brown, Orange, and Green Lines) serving approximately 144 million passengers on 224 miles of mainline revenue track. This Heavy Rail system includes 122 miles of ballasted roadbed, 80 miles of open-deck-elevated structure, and 22 miles in subway. The CTA's 1,190 rapid transit cars operate over 319 round-trip route miles, serving a total of 144 passenger stations. There are approximately 2,136 scheduled train departures each weekday requiring 115 trains sets with 952 cars. Each weekday, the

CTA operates about 175,000 vehicle miles serving 500,000 riders.

#### **RTA Rail Safety Oversight (RSO) Program**

The RTA's Rail Safety Oversight (RSO) program was designed to enforce the Federal Transit Administration's (FTA) State Safety Oversight (SSO) Rule for fixed rail guideway systems. As program guidance, the RTA employed the System Safety Program Standard and Procedures (SSPS) which established requirements to be implemented by the Chicago Transit Authority.

The RTA Standard includes minimum requirements for two key areas: first, safety practices to reduce the likelihood of unintentional events that may lead to death, injury, or property damage; and secondly, security practices to reduce intentional wrongful or criminal acts. The RTA Board of Directors adopted the Standard in November of 1997, in order to comply with the requirements of the State Safety Oversight Rule. The RTA Board encourages the CTA to exceed these minimum requirements in their passenger operations and to further enhance safety and security by applying system safety principles throughout CTA activities.

The RTA Standard further requires that the CTA define the safety program for employees and contractors that incorporate applicable local, state, and federal requirements. A description of the specific activities required to implement the program, including tasks performed by the CTA System Safety personnel and the safety related tasks to be performed by other departments and contractors is also required. Once identified, these tasks are used to develop areas of responsibility for implementing the safety program.

While documented procedures are essential to the successful implementation of any program, the state of practice has an even greater impact. The CTA System Safety group responsible for implementation of the Safety Program, reports directly to the office of the President of the CTA. This direct reporting relationship provides a direct line of communication for addressing safety issues.

#### **RTA Rail Safety Oversight (RSO) Program Implementation**

The RTA's Rail Safety Oversight (RSO) Program is managed by the Oversight & Technology Development Division of the Planning Department. The RTA's staff of trained engineers includes specialists in the areas of transportation, industrial safety, rail safety, and project management all enhanced by safety specific training received from the Transportation Safety Institute (TSI).

Mr. Chairman, the RTA is committed to its statutory oversight function. The Rail Safety Oversight program, which occasionally uses consultants to augment accident investigations and safety audits, is wholly funded through our annual operating budget.

This responsibility includes: requiring and approving the investigation of major CTA accidents; conducting on-site triennial reviews, filing requisite reports to the FTA and requiring and approving the annual internal safety audit. Safety program activities also

involve hazard management, safety certification, and corrective actions resulting from investigations and/or audits, and any other safety program activities of interest to the RTA.

Regarding accident investigations, the CTA Safety Group conducts accident investigations using procedures approved by the RTA. Since the System Safety group reports directly to the President, they are empowered to conduct investigations and make corrective action recommendations to the appropriate CTA departments based on areas of responsibility identified in the System Safety Program Plan. In the event the National Transportation Safety Board (NTSB) intends to investigate a CTA accident, the CTA must notify the RTA and the RTA becomes a party to the investigation.

As members of the Subcommittee may be aware, there was a derailment on the CTA rail system this past week that resulted in the evacuation of nearly 1,000 passengers from a subway in downtown Chicago. The RTA extends our regrets to all of the passengers who were injured and inconvenienced. We also commend the CTA and local emergency service agencies for handling the incident in a manner that resulted in no fatalities and timely restoration of service. Those to be acknowledged for their services are firefighters and police in the city of Chicago and surrounding suburbs, along with medical personnel and emergency response agencies such as the American Red Cross and the Salvation Army. Considering the circumstances, we can't say enough about their effective collaboration and support along with the cooperation of the train passengers.

Mr. Chairman, the FTA's State Safety Oversight program has been beneficial in establishing cooperative working relationships between the FTA, RTA and the CTA to facilitate program implementation. This level of coordination provides enhanced safety benefits to the agencies and program, but most notably to the traveling public.

The FTA program also has a secondary but equally important benefit that affords opportunities for information sharing among oversight agencies. Best practices and lessons learned are shared during annual meetings, conference calls and workshops sponsored by FTA. The RTA is participating on the FTA's Accident Investigation and Performance Measures Work Groups to address safety program issues. Similarly, industry practices for Fatigue Management are being assessed through an FTA survey issued through the oversight agencies.

### **SSO Program Opportunities and Challenges**

Mr. Chairman, the FTA's SSO Program has provided an effective framework for the oversight of rail safety. In the northeastern Illinois region, the program facilitates enhanced interagency coordination among transportation providers, state and city departments of transportation, and emergency services. Since the CTA operates in a large geographic area, coordination is required for more than 30 communities.

Examples of such coordination include specialized training with city and suburban Police and Fire Districts to ensure personnel safety when accessing the rail system. Such a drill



was conducted on Sunday June 11, 2006 with the CTA. The Mass Casualty Incident Training exercise provided an opportunity for the CTA to work with the Emergency Medical Services, Fire Suppression and the Rescue Divisions of the Chicago Fire Department. During the drill, each agency identified areas of improvement to ensure understanding and testing of their standard operating procedures and communications protocols. The CTA is currently compiling a report that will include lessons learned from the drill for submittal to the Department of Homeland Security.

The American Red Cross of Greater Chicago provides another example of interagency cooperation. During major events, the Red Cross provides expanded disaster services by managing information on injured and hospitalized passengers for their families. With Red Cross serving such a vital role to the community, rail system operators are available to focus on recovery of services. Other northeastern Illinois coordination entities include the Transportation Security Administration (TSA) local Surface Transportation Rail Inspector, the Illinois Terrorism Task Force which hosts an annual Transportation Emergency Preparedness Exercise and the Gary-Chicago-Milwaukee Intelligent Transportation System Priority Corridor Coalition which coordinates information sharing and incident management for the 16-county tri-state area.

While such coordination opportunities are abundant, participation is often limited by available resources. Given the recent amendment to the SSO Rule to include system security, a continued and expanded commitment of resources is required by oversight agencies to ensure compliance. Expanded resource commitments include additional safety and security training as well as oversight staff to effectively interface with transportation security professionals.

#### **Conclusion**

Mr. Chairman, again thank you and the Subcommittee for inviting me to testify. We at the RTA look forward to working with the FTA and the partner agencies to ensure the safety and security of the public transportation system. I appreciate the Subcommittee's interest in this area and your commitment to effective and meaningful transit safety programs. I would be pleased to respond to questions at this time.

TESTIMONY OF  
WILLIAM W. MILLAR, PRESIDENT  
AMERICAN PUBLIC TRANSPORTATION ASSOCIATION  
BEFORE THE  
SUBCOMMITTEE ON HIGHWAYS, TRANSIT & PIPELINES  
OF THE  
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
ON  
THE FEDERAL TRANSIT ADMINISTRATION'S  
STATE SAFETY OVERSIGHT PROGRAM

\*\*\*\*\*

July 19, 2006

SUBMITTED BY

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APTA is a nonprofit international association of more than 1,500 public and private member organizations including transit systems 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 ninety percent of persons using public transportation in the United States and Canada are served by APTA members.

### **Introduction**

Chairman Petri, Ranking Member DeFazio, and members of the House Highways, Transit & Pipelines subcommittee, on behalf of the American Public Transportation Association (APTA), I thank you for this opportunity to testify today on the Federal Transit Administration's (FTA) State Safety Oversight program (SSO). Safety is a high priority of public transportation providers, state and local governments and APTA, and I am pleased to offer the transit industry's perspective on how to improve the already successful State Safety Oversight program which promotes the safe operation of rail transit systems, including subway, light-rail and trolley services.

At the outset, I want to remind the subcommittee that public transportation, particularly rail travel, continues to be one of the safest modes of travel in the U.S. According to the National Safety Council's 2005-2006 "Injury Facts", it is estimated that transit rail riders are 14 times safer than those traveling by car. The State Safety Oversight program has contributed to this outstanding safety record by promoting standards and by requiring fixed guideway transit providers to regularly examine their operations in order to promote safety under the watch of a designated state entity. The SSO program is largely based on concepts that have been led and developed by APTA, and we consequently have several thoughts on the direction of the program today.

### **APTA and SAFETY**

APTA has been a key and primary partner for the advancements of transit safety, even prior to the inception of the State Safety Oversight program under the Intermodal Surface Transportation Efficiency Act of 1991. In the 1980s, APTA was requested by the U.S. rail transit industry and FTA's predecessor the Urban Mass Transit Administration (UMTA) to develop a standardized program for rail transit system safety. APTA subsequently developed a program that laid out the key components for a system safety program plan and also developed an audit program to provide audits on a triennial basis. The focus for the audit is to assess the degree to which a transit system is applying its own system safety plan into its operations and to assist the transit system in making any improvements required. The program was founded on effective industry practices, as well as the U.S. Military Standard 882-C. This voluntary APTA program became known as the APTA Rail Safety Audit Program.

APTA's commitment to safety is also the basis for our Standards Development Program that was initiated in 1996 and currently spans areas including standards for rail transit, commuter rail, bus operations, procurement, intelligent communications interface protocols, and security. APTA's status as a standards development organization is recognized by the U.S. Department of Transportation and is also funded, in part, through grants provided by FTA.

APTA's Safety and Security Management Programs are recognized internationally and provide leadership in program development, benchmarking of effective practices, and delivery of safety and security program audits of transit systems. Currently, 56 public transportation systems participate in the rail, commuter rail or bus safety management programs offered by APTA in North America and Asia. These comprehensive management programs are designed to examine

every area of transit planning, construction, acquisition, operations, security, emergency preparedness and maintenance to ensure the safety of our public transportation passengers and employees.

#### **SSO Program and Standards Development**

The APTA Manual for the Development of Rail Transit System Safety Program Plans (APTA Manual) formed the substantive basis of FTA's SSO program when the program was initiated in 1996, and it guided the program until last year. To our concern and dismay, however, APTA's Manual was not referenced or acknowledged by the FTA in the recent update of the SSO regulation. Paradoxically, the FTA continues to acknowledge APTA as a Standards Development Organization and provides funding support to this program.

APTA is very concerned that FTA eliminated its reference to the APTA Manual in SSO program regulations in the 2005 rulemaking. APTA has on-going access to industry best practices, and our efforts promote continual and on-going improvement to perpetually raise the bar of safety excellence.

APTA undertook this role and became a Standards Development Organization (SDO) because existing SDO's were not interested in or not capable of meeting the transit industry's need for standards. APTA develops these standards through a set of formal procedures patterned after the process required by the American National Standards Institute (ANSI) to certify Standards Development Organizations. Some important characteristics of the process are:

- balanced representation of interested parties
- required public comment period
- formal process to respond to comments
- availabilities of an appeal procedure
- balloting group broadly representative of the industry
- consensus defined as a super majority of the balloting group
- a formal way to respond to requests for interpretations of or changes to the standard

To date, APTA has produced over 200 consensus standards for the public transportation industry and continues in this important effort.

FTA's decision to no longer incorporate the APTA Manual by reference in SSO program regulations is simply inconsistent with the Department of Transportation's (DOT) recognition of APTA as a Standards Development Organization. As noted in the National Technology Transfer and Advancement Act of 1995 (P.L. 104-113), the federal government should acknowledge those standardized formats develop by an industry's lead association. The FTA should permit the transit industry and the federal government to continue their collaborative relationship on important safety and security issues, but instead, the FTA has sought to spend additional funds on their own unnecessary, and less effective, standards development efforts.

FTA's action is also inconsistent with other U.S. DOT practice. In 1996, the Federal Railroad Administration (FRA) partnered with APTA and U.S. commuter rail agencies in the development of a voluntary system safety audit program known as the APTA Commuter Rail Safety Management Program (CRSMP). Within this very successful program there is no state safety oversight requirement and the commuter rail systems participate on a voluntary, although strongly encouraged, basis. Audits and on-going development are provided through APTA's system safety professionals. Also, unlike the FTA's SSO program, within the structure of the APTA CRSMP, FRA staff accompany the APTA system safety auditors as audit activities are provided.

Since the implementation of its initial program, APTA has grown its standard-setting and audit programs, and we continue to review and update those programs to ensure that they remain relevant and effective. Continuing to incorporate the APTA Manual by reference would ensure that the SSO program's regulations would continue to reflect the latest circumstances and standards. In short, we strongly urge FTA to reconsider its decision and reincorporate the APTA Manual as a part of its state safety oversight rule.

#### **APTA Safety Management Audit Programs**

APTA's role in the SSO program is not limited to the development of standards that help guide the program. APTA's Safety Management Audit Programs assist transit properties and State Oversight Agencies (SOAs) execute the triennial audit process called for under the SSO program. An APTA audit examines aspects of a transit provider's System Safety Program Plan (SSPP). Specifically, it asks:

- Does the transit system have a SSPP developed in accordance with the latest transit safety, security and emergency management practices / APTA guidelines?
- Is the transit system's SSPP fully implemented?
- Is the transit system conducting an internal audit program to identify, track and resolve system safety program deficiencies?
- What management practices exist in the areas of operations, maintenance, training, inspections, employee testing, emergency management and security?

Currently, 10 providers of fixed guideway transit service contract with APTA to execute system safety audits which can then serve as a resource for the "internal audit" requirements of the SSO program. The APTA audit is generally an external audit using a sampling technique for purposes of evaluating the management system safety elements. The internal safety review called for under the SSO program is intended to focus on the implementation of practices and procedures that support each of the specific safety elements, and they should be much more thoroughly reviewed beyond what a sampling process would provide.

#### **Status of State Safety Oversight Audits**

From our unique vantage point, we have several thoughts on the state of the current audit process called for by the SSO program. Our APTA audits, which are separate from the SSO program, reveal that the SSO program's internal safety audit element tends to be a weak area in many of the properties that we work with. In most agencies, the in-house staff involved with the

review are either the same people who designed the program elements or they do not have the requisite experience and qualifications to make a reasoned and objective judgment as to the adequacy of the program being reviewed. Such a system would have difficulty to consistently pass muster in a review by an examination board of an audit certification bureau.

As the APTA audit process is a continual improvement program, APTA is currently reformatting APTA safety audit program checklists to provide the agencies with the ability to better address the juggernaut that the new internal safety review requirement of the SSO program creates for them. In fact, the members using the APTA program will be in a much better position of complying with the regulations than those who do not, as it will provide an additional level of independence, expertise, and qualification in conducting the review.

A further area of concern that APTA has with the SSO program is that the state by state application and management of this requirement varies enormously. Some states are specifically structured to manage this regulation and many others simply do not have the appropriate safety professional resources to provide sufficient oversight. This issue is further compounded in that the State Safety Oversight regulation is an unfunded mandate, and the program does not provide funding to ensure consistency across the states. APTA recognizes the efforts of the FTA to provide training support to the states through external contracted sources, but this simply does not take the support levels far enough and still leaves many states without the requisite subject matter expertise to effectively deliver an oversight program. There also needs to be an appreciation that no two rail transit systems are totally alike and, consequently, the needs and applications of system safety need to be scalable accordingly.

### **Conclusion**

Unfortunately, FTA has focused on the needs of the state oversight agencies without considering local needs and differences among the rail transit agencies. As well, APTA's leadership in the system safety process has been eliminated by the current regulatory oversight rule. The subject matter knowledge of system safety applications reside within APTA and the industry's safety professionals. We strongly encourage that these sources and partnerships be embraced and renewed to guide system safety for rail transit systems and the states that have been required to provide oversight.

APTA recommends that the FTA either issue guidelines and enable a voluntary system safety process as per the FRA model, or that FTA should fund the SSO program in a way that will appropriately enable each state to achieve a consistent level of program application and industry support.

We appreciate the opportunity to testify on this important issue of system safety, and we continue to stand ready to help FTA in the implementation of its state safety oversight regulation. Partnership, collaboration, and communication have served us well in areas such as the joint Safety Certification Manual and the Memorandum of Understanding on Bus System Safety. APTA supports the same type of partnership, collaboration, and communication in the state safety oversight area, where APTA, FTA and the state oversight agencies all share a common goal.

STATEMENT of Rep. JON PORTER (R-NV)  
House Transportation and Infrastructure Committee  
Subcommittee on Highways, Transit, and Pipelines  
July 19, 2006

Mr. Chairman, I thank you for holding this hearing today on the Federal Transit Administration's State Safety Oversight Program.

Southern Nevada is one of the fastest growing regions in the country with 5,000 new residents a month relocating to the area. In 1990, Clark County's population was 853,000, by 2000 it was 1,429,000, and today it is well over 1,800,000. By 2030 Southern Nevada's population is expected to increase to 3,000,000. With over 50 million tourist and 60,000 new residents visiting the region each year Southern Nevada faces a unique challenge when addressing congestion and safety concerns on its highways.

As Southern Nevada continues to grow, many transportation experts feel that light rail is a viable solution to congestion and safety concerns in highly traveled corridors. The Southern Nevada Regional Transit Commission is considering light rail for the Las Vegas strip and hopes that it will solve the traffic problems on Las Vegas Boulevard which reached capacity years ago. The Federal Transit Administration's State Safety Oversight Board may prove to be a resource when considering ways to address potential safety concerns while we consider the rail options available.

I am extremely interested in hearing the comments from my fellow subcommittee members as well as the testimony from the witnesses. I yield back

**Susan E. Schruth**  
**Associate Administrator for Program Management**  
**Federal Transit Administration**  
**U.S. Department of Transportation**  
**before the**

**Subcommittee on Highways, Transit & Pipelines**  
**Committee on Transportation and Infrastructure**  
**U.S. House of Representatives**

**"State Safety Oversight Program"**

**July 19, 2006**

Mr. Chairman and members of the subcommittee, thank you for this opportunity to testify on behalf of the U.S. Department of Transportation, about the Federal Transit Administration's (FTA) State Safety Oversight (SSO) Program. I would also like to take this opportunity to thank Government Accountability Office (GAO) for the thoroughness of the review it conducted over the last year, and for its recommendations to strengthen further the SSO Program. Finally, I would like to extend my appreciation to the representatives of the agencies here to testify before this Committee today.

In this written testimony, I highlight many accomplishments of the SSO Program, as well as background on how we have developed the program to be the success we believe it is today.

The SSO program affects 26 States and 43 rail transit agencies nationwide. Collectively, the SSO community has much to be proud of. Rail transit provides more than 3 billion passenger trips each year, and moves millions of people each day.

As reported by the National Transportation Safety Board (NTSB) in its Safety Report for 2004, rail transit is responsible for less than 0.1 percent of the 44,870 transportation fatalities that occurred in the United States that year. In addition, rail transit was responsible for less than 0.15 percent of the nation's 3.5 million transportation-related injuries, and less than 0.06 percent of the nation's total transportation-related property damage.

Of course, unfortunately, accidents do occur in rail transit, and the potential for a catastrophic event remains. FTA is committed to continual improvement in the industry, and works everyday to ensure the safety of rail transit passengers, employees, emergency responders, and all others who come into contact with these systems.

This morning, in these few minutes, I would like to discuss the key aspects of the program, including changes to the program in our final rule published last year, the key



improvements to the program specified in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and how we are implementing those, and finally, to highlight areas that we are working to improve.

#### **Background on the SSO Program and Changes in the Rule**

First, by way of introduction, Mr. Chairman, your committee authorized the SSO program in 1991, in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). FTA published a final rule in 1995, with a phased-in effectiveness period. States and rail transit agencies had to be in compliance with all of the rule's requirements by January 1, 1998. Today, the rule remains codified in Title 49 of the Code of Federal Regulations, Part 659.

FTA's SSO program offers a unique approach to oversight. This approach was recommended by the (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. FTA is responsible for setting minimum requirements to be met by the States and rail transit agencies, and for monitoring implementation of the program. After over a decade of experience with this program, we believe it is an effective model.

The first few years of the program were challenging ones. When the rule was published, only five States had existing oversight programs, and not one of these programs fully met FTA's requirements. Between 1995 and 1998, we worked closely with the affected States and rail transit agencies to ensure that resources were devoted to establish the oversight agencies, and that these agencies were led by technically competent managers. In addition, the rail transit agencies did their part to provide familiarization training to oversight personnel regarding their organizations, operations, procedures, challenges and needs.

Through the Transportation Safety Institute (TSI) and the National Transit Institute (NTI), FTA established a comprehensive safety training program addressing a range of technical issues faced by industry. This training was 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 all personnel involved in implementing the SSO program develop core competencies in rail transit safety.

To further fulfill our obligation to monitor the SSO program implementation, FTA initiated compliance audits of SSO agencies in the fall of 1998. This is an extensive 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. Through this program, between 1998 and 2005, FTA effectively identified and resolved over 220 findings at the State agencies.

To address the special needs of new States and rail transit agencies joining the program, we also conducted Safety and Security Readiness Reviews (SSRRs). Since 1999, seven

States and seven rail transit agencies have joined the program. FTA has worked with each of these States and rail transit agencies to review their programs, evaluate their initial submissions, provide technical assistance, and ensure compliance with the program requirements.

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.

Based on the results of the SSO audit program, the SSRRs and annual reports, as well as input from NTSB and the Federal Railroad Administration (FRA) – with whom we share oversight for several light rail systems with shared use track or limited connections to the general railroad system, FTA initiated work on a revision to its rule in 2003. 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 RiverLINE. The revised rule also addresses an NTSB recommendation regarding the need for proficiency and efficiency testing for operations and maintenance personnel. Finally, the revised rule improves oversight of internal safety and security auditing at rail transit agencies; expands the role of the oversight agency in the hazard management process; promotes consistency between FTA's National Transit Database (NTD) and oversight agency accident notification and investigation thresholds; and clarifies requirements for security.

On May 1, FTA received the required initial submissions from each of the 26 affected SSO agencies. FTA has completed its evaluation of these submissions, and is now working with the SSO agencies and rail transit agencies to address identified deficiencies and concerns. FTA anticipates that the SSO agencies will be in full compliance with the revised rule by October 1, 2006.

#### **SAFETEA-LU Changes**

Last year, SAFETEA-LU amended the SSO program. First, SAFETEA-LU requires 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 should not be subject to more than one set of safety oversight standards.

FTA is working to address both of these changes, and will be preparing a notice of proposed rulemaking (NPRM) for publication in the *Federal Register*. Regarding the role of SSO agencies in projects in the design phase, we have increased coordination with our Regional Offices, and now invite the SSO agencies to all Quarterly Review Meetings conducted for New Starts projects in their jurisdictions. We are also requiring Safety and Security Management Plans (SSMPs) for all major capital projects. A critical element

addressed in these plans is the grantee's readiness to comply with SSO requirements with the initiation of revenue service. Finally, our Project Management Oversight (PMO) contractors, using the safety and security technical experts on their teams, 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 revised rule, ensuring that in the event multiple States share oversight responsibility, the rail transit agency "is subject to a single program standard, adopted by all affected states."

#### **Program Accomplishments and Areas of Improvement**

Mr. Chairman, we can cite numerous examples of the positive effect this program has had on safety in the rail transit industry. I would like to share a few examples with you.

Over the last few years, in Massachusetts, the oversight agency, Massachusetts Department of Telecommunications and Energy (MDTE) has worked closely with the Massachusetts Bay Transportation Authority (MBTA) in Boston to resolve hazards resulting from the introduction of low-floor rail transit vehicles into that agency's operations. MDTE activities resulted in a significant re-engineering effort. Retrofitted vehicles are now being tested and phased into service.

In New York, during the late 1990s, the oversight agency, New York State Public Safety Board (PTSB), played a critical role in evaluating New York City Transit's (NYCT) decision to implement one-person-train operation (OPTO) pilot programs on five shuttle lines. PTSB worked closely with NYCT to ensure sufficient countermeasures were in place to allow the removal of the conductor from the trains. The next phase of this pilot involves integration of NYCT's new communications-based train control system into OPTO service on the Canarsie Line.

The Utah Department of Transportation (UDOT) played a critical role in overseeing the Utah Transit Authority (UTA) as the designated transportation provider during the 2002 Winter Olympics. UDOT worked tirelessly with UTA to ensure that service plans and contracts with the Salt Lake City Olympic Organizing Committee addressed safety and security for all Olympic spectators, and that loaned vehicles from Dallas were safely integrated into UTA's Olympic service plan. During the two weeks of the games, UTA's Olympic Spectator System carried a total of over 2.5 million passengers without a single safety incident.

New Jersey Department of Transportation (NJDOT), which oversees four rail transit systems, has experienced many successes in its program. NJDOT has established a ground-breaking partnership with FRA regarding the management of track waivers for systems in Newark and southern New Jersey. In addition, NJDOT has provided effective oversight to the nation's first public transportation public-private partnership using a "DBOM" (design/build/operate/maintain) contract. The approach used by NJDOT to

managing the DBOM process to address safety and security has become a model throughout the country and in other modal transportation projects using DBOM contracts.

Finally, the Colorado Public Utilities Commission (CoPUC) in partnership with the Denver Regional Transportation District (RTD), has worked effectively to overcome resource challenges at both agencies. Colorado PUC proposed combining its three-year safety and security review process with Denver RTD's internal safety and security auditing process.

#### Performance Measures

As you may sense from these examples, it is difficult to quantify the benefits that correlate directly to the SSO program. Developing performance measures has been on our agenda for several years. Fortunately, as I stated during my introduction, the safety record of rail transit is better than any other mode of transportation. This good news makes it difficult to measure improvement, especially when the statistics that need to be evaluated are measured in fragments of percentages rather than whole numbers.

Currently we are working to develop performance measures and to establish a performance measurement program that can yield statistical data to document and substantiate anecdotal evidence of success on an industry-wide level.

Going to the "next level" of performance measures poses some unique challenges. It is difficult to "prove the negative" of an accident or incident that was prevented through the SSO program. Technically, it is also a challenge to achieve statistical significance in performance measures for the rail transit industry based on what is—quite fortunately—a low number of accidents and incidents. Nevertheless, we are committed to documenting industry performance as it relates to specific activities in the SSO program—and we are committed to establishing strategic goals and performance measures for the program by the end of fiscal year 2006.

As a first step we have developed a plan to collect and evaluate existing NTD and data submitted by the States' Safety Offices, and we will soon release our *Rail Transit Safety Action Plan*. We plan annual updates of that plan based on ongoing data to report to the SSO community on how well we are collectively doing.

In a more ambitious step, we are conducting a cutting-edge study with Oklahoma State University (OSU) to develop a performance program to assess the benefits of SSO and rail transit program that moves beyond accident data. With the completion of the OSU study we anticipate being able to use performance measures to capture less tangible but no less important safety measures, such as how well rail transit employees are complying with safety rules and procedures; measures of how passengers perceive safety and security; measures of "near misses;" and measures that express the safety benefits from specific design features or operating procedures.

Finally, to assess implementation of the revised rule, we are modifying our SSO compliance audit program to collect additional information to support program performance measures. During the three-year period between October 2006 and September 2009, we will audit each of the 26 SSO agencies. Using a set of web-based tools, we will be able to capture and report critical program information obtained from the States during the audits. Examples of the types of data we will be able to collect include the following: the level of resources devoted to the program, training and certifications obtained by the SSO program managers, the functions performed by contractors, hazards identified and managed by the program, the development of corrective action plans, and the time required to address them."

### Training

Another important issue that we are dedicating thought, resources, and time to concerns the training of SSO staff and program managers. We have always recognized the importance of this training, although we do not have the authority to mandate specific certification requirements or stipulate minimum levels of experience or education.

Since 2000, FTA has encouraged the SSO program managers to complete a Transportation Safety Institute (TSI) safety and security certification program. FTA also provides training on a range of other topics through the NTI.

All in all, staff and program managers have availed themselves of these safety and security training options. The majority of SSO program managers have taken at least three of the TSI courses.

Management training on the conduct of oversight is not yet as robust as the safety and security training options. We are taking several steps to assist States in ensuring the technical expertise of the personnel assigned to manage the program. In recognition of the limited State funds available for management training, FTA is working with TSI to revise its course on Transit Rail System Safety so that it includes several modules specifically for program managers. This course will be piloted in-house in August of this year.

We have also secured funds to continue at least one invitational workshop for program managers each year. Finally, we will be conducting a survey of SSO program managers to identify training gaps and needs. Overall, given the small population of SSO program managers and the specialized, idiosyncratic types of activities they perform, FTA believes that invitational workshops will prove the best forum for management training.

### Coordination with the Department of Homeland Security's Transportation Security Administration (TSA)

Finally, we are working to improve coordination between the SSO agencies and the new TSA Surface Transportation Security Inspection Program (STSIP) and FRA with regard to the rule's security requirements. The Federal Government is partnering a select group

of SSO agencies and rail transit agencies to develop a “model program” to establish a framework through which the SSO agencies and the Federal Government can work together. In sessions throughout the summer, we will work with our government and industry partners to complete the draft “model program,” which will be presented to the SSO agencies and rail transit agencies for discussion and further refinement during a day-long session at the 10th Annual SSO Workshop in September. Final guidance will be published to clarify the roles and responsibilities for SSO agencies in the spring of 2007.

### **Conclusion**

Since its inception in 1991, the SSO program has contributed to rail and transit safety, and has proven its merits as a sound, successful oversight program. As with any safety program, it is always a work in progress. FTA and those with whom we collaborate proactively seek ways to continuously improve and better measure performance. The SSO program had been further improved by FTA's own efforts in April 2005 to clarify the rule and later by SAFETEA-LU's amendments. Today, we are continuing to refine the program and move it forward by working to implement statistical performance measures, and to improve SSO community training.

And now I'd be happy to answer any questions that you might have. Thank you.

**Statement of**  
**Robert P. Sedlock, Manager, Fixed Guideway Safety Oversight,**  
**New Jersey Department of Transportation**  
**Before the Subcommittee on Highways, Transit and Pipelines**  
**Committee on Transportation and Infrastructure**  
**United States House of Representatives**  
**Hearing on “Transit Safety: The Federal Transit Administration’s**  
**State Safety Oversight Program”**  
**July 19, 2006**

**Introduction**

Chairman Petri, Ranking Member DeFazio, and Members of the Subcommittee, thank you for the kind invitation to speak with you today on the topic of State Safety Oversight in transit. On behalf of Governor Jon Corzine and Commissioner of Transportation Kris Kolluri, our State extends its appreciation to the Subcommittee for your interest in the State Safety Oversight Program in New Jersey and across the nation. We are very grateful to our Congressman LoBiondo and Congressman Pascrell and all the members of this Subcommittee for your leadership and very fine work in transportation safety, as reflected in the major enactment last year of SAFETEA-LU. Thank you for your strong commitment to safety in transportation.

**Safety Oversight and System Safety**

Serving as manager of the Fixed Guideway Safety Oversight Office of the New Jersey Department of Transportation, from its inception under the Federal Transit Administration’s (FTA) program, I have had the opportunity to observe for a number of years the application of safety oversight in the context of transit operations. It is clearly a worthwhile endeavor to enhance safety for the public and transit workers. The hallmarks of the Safety Oversight Program are: 1) its approach to safety in a systemic way, instilling risk based safety in all elements of transit development and operations, 2) its independent audits and ongoing reviews of safety, 3) its flexibility in adapting to transit systems of varying size and modes of operation, 4) its goals to identify and resolve safety items, concerns and changes early, and 5) its focus on accountability for all phases of safety and the safety certification process. Such an inclusive, systemic and sustained approach to safety oversight quietly accords critical benefits to the public. Safety oversight and system safety principles are now widely embraced and practiced internationally in the context of commercial aviation and aerospace safety. Similarly, you have included in SAFETEA-LU various provisions in furtherance of highway safety using many of these principles, through data collection, comprehensive state safety plans and systemic reviews. System safety and safety oversight are synonymous demands by transit users and the public in the provision of safe operations for them at a reasonable

cost. The FTA's State Safety Oversight Program is one that is now advanced and is successful, as it incorporates structures for performance and accountability and an in-depth system safety approach that may serve as a future model for other modes of transportation.

### **New Jersey Safety Oversight**

Our Office, at this time, has oversight responsibility for a variety of transit properties in the State: 1) The NJT Hudson Bergen Light Rail System (a Design-Build-Operate-Maintain system - New Jersey north), 2) the Newark City Subway System (an older facility which continues to undergo major improvements and expansion - New Jersey north), 3) the Port Authority Transit Corporation (PATCO) Hi-Speed Rail Line (a bi-state transit system between New Jersey south and Pennsylvania, having a strong history of efficiency, which is now in the process of recapitalizing its rolling stock), and 4) the New Jersey Transit (NJT) RiverLine (a Design-Build-Operate-Maintain light rail system - New Jersey south, operating partly on freight rail track). The diversity of properties, operations, owners, operators, and other characteristics of these systems gave us pause in the development of our oversight efforts, to assure that the requirements were workable within such diversity. The variety of properties and their locations also involves coordination and communication with various federal agencies including, FTA, FRA and TSA through their national offices and through six regional Federal offices that interface with the transit systems in New Jersey, north and south.

As noted previously, a key accomplishment of the FTA State Safety Oversight Program is the structuring of accountability for the public safety. Our experience is that this has been particularly helpful in the context of the two Design-Build-Operate-Maintain (DBOM) light rail systems recently built in our state. Accountability is defined through the oversight process, and it is accorded to both the owner (transit agency) and the operator (contractor) of the transit system.

We also note that state oversight under the program has been very critical at early stages of the development of a new transit system. Our experience has been that it is optimal to become involved early in the life cycle of a transit system in order that safety is in the forefront of the endeavor and that system safety is incorporated in all phases (planning, design, construction, procurement, systems integrated testing, operations reliability demonstration, and revenue passenger operations) of a modernization or new construction project. One can also envision that the work of the FTA program in safety will have utility for transit equipment manufacturers, as they develop the next generation of transit rolling stock and infrastructure. Early inclusion of system safety, through the safety certification and oversight mechanisms, clearly provides significant safety and economic benefits for the public and the transit agency.



### **Evolution of the FTA Program**

The Federal Transit Administration's State Safety Oversight Program has evolved since Congress passed the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), which added Section 28 to the Federal Transit Act to develop state-managed safety oversight programs for rail transit operations. The early regulations under 49 C.F.R. Part 659 have been recently amended, providing for earlier involvement of the oversight process and delineating clearer direction in formulating the oversight program. During the early stages of the oversight program, many of the states, including ours, established a close working relationship with the transit agencies, and through cooperative efforts were able to conduct many of the safety tasks early in the project's development, even though the original FTA regulations formally took effect just prior to commencement of revenue service. The Federal Transit Administration's new rule (49 C.F.R. Part 659), issued April 29, 2006, resolved a major draw back in the original regulations, by implementing the oversight program in the planning and preliminary design stage of a project. The change will ensure a partnership approach between the transit systems and oversight agencies, in addressing safety, security and certification issues well in advance of scheduling the system for revenue operation.

Working with the oversight agencies, the FTA staff formulated Implementation Guidelines and a Tool Kit with templates, which greatly improved the quality of its State Safety Oversight Program. Clear directions and guidance, supporting FTA's revised rule, have enhanced the program and have helped clarify and resolve various instructional and requirement interpretations.

Oversight agencies know that strong guidance over the years has "paid-off" when (during the course of meetings and reviews) the transit agencies provide the answers even before the oversight agencies ask the questions. Such is an excellent performance measure.

### **Challenges and Opportunities**

The benefits of FTA's State Safety Oversight Program are qualitatively observed from our perspective in the states. At times, these benefits are difficult to quantify – it is very difficult to measure something that does not happen (accidents, fatalities, injuries that are prevented), and it is even more difficult to ascribe such non-events to specific interventions. Though our safety endeavors do save lives from serious accidents, we will never really know how many lives we have saved and spared injury. Such is part of our job, yet we continue our work in earnest, recognizing its critical importance. It is important to recognize that safety is an ongoing effort, day in and day out. The oversight program is designed with this in mind, requiring periodic audits, frequent reviews, recertifications, ongoing training, etc.

Important challenges, shared among the states, are the resource needs associated with sustaining expertise, personnel retention, and ongoing training. System safety and safety oversight require a very specialized approach, which needs to be continually emphasized to all personnel involved (whether at the oversight agency, the transit entity, operators, contractors, etc.). For some states, it is difficult to sustain adequate funding for this important yet unfunded Federal mandate. It is particularly difficult to provide adequately for succession of personnel, their training and related costs. Though there has been Federal assistance in the context of the establishment of safety oversight offices under the New Starts program, there is no sustained funding source for ongoing state oversight activities. This has led to disparity among the states in the levels and expertise of staffing in the oversight function. Though safety oversight is actually a bargain and minimal in relation to the costs of transit operations, a sustained, reliable, discrete funding under the Federal surface transportation legislation is not provided for the states with respect to their safety oversight offices.

As part of the FTA's requirements for New Starts projects, funds are available for the start-up and operation of the oversight agency through the commencement of revenue service. However, continuing transit safety oversight remains as an unfunded, necessary mandate that requires adequate resources. Many states operate with minimum staff (lean and mean) and must find operating funds from various other offices or departments, as well as through invoicing the transit agencies for services such as the three year (audits) reviews. With reliable and sustained funding provided to the states, oversight agencies could move their programs from a priority-based environment to a task-oriented implementation effort. Thereby, more staff, greater expertise and added performance would be available for this important function, through funds supporting staffing and training.

The FTA, with FRA, NTSB, TSA and TSI in attendance, recently held a performance review meeting in St. Louis with the various state safety oversight offices and officials from around the nation. The meeting included a complete review of each oversight agency's updated safety and security programs and their compliance with FTA's new rule. Since the FTA provided funds for travel and lodging, most states were able to attend the event, which resulted in one of the most successful meetings for both the federal and state agencies. The performance reviews, the training session, the information provided by the attending Federal agencies, and the invaluable exchange of ideas and experiences among all the agencies and participants, provided insights to improvements, updates, and examples of how to accomplish well the safety oversight function. The FTA is applauded for this and should consider the St. Louis meeting as a template for all future meetings and program reviews of the oversight agencies. Congress is also applauded for appropriating the funds that facilitate such national specialized training for the public safety.

**Conclusions**

Thank you for the opportunity to share our experiences with you regarding the FTA State Safety Oversight Program. Those experiences have been very positive and fruitful. Much thought, work and collaboration have gone into the development of this program over the years, for the benefit of the public.

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United States Government Accountability Office

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**GAO**

Testimony

Before the Subcommittee on Highways,  
Transit, and Pipelines, Committee on  
Transportation and Infrastructure, House  
of Representatives

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For Release on Delivery  
Expected at 2:00 p.m. EDT  
Wednesday, July 19, 2006

## RAIL TRANSIT

### Observations on FTA's State Safety Oversight Program

Statement of Katherine Siggerud, Director  
Physical Infrastructure



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GAO-06-997T

July 19, 2006

## GAO Highlights

Highlights of GAO-06-997T, a report to Subcommittee on Highways, Transit and Pipelines, Committee on Transportation and Infrastructure, House of Representatives

### Why GAO Did This Study

The U.S. rail transit system is a vital component of the nation's transportation infrastructure, carrying millions of people daily. Unlike most transportation modes, safety and security oversight of rail transit is the responsibility of state-designated oversight agencies following Federal Transit Administration (FTA) requirements. In addition, in 2001, Congress passed the Aviation and Transportation Security Act, giving the Transportation Security Administration (TSA) authority for security over all transportation modes, including rail transit.

This testimony is based on ongoing work for this subcommittee's committee—the House Committee on Transportation and Infrastructure. I describe (1) how the State Safety Oversight program is designed; (2) what is known about the impact of the program on rail safety and security; and (3) challenges facing the program. I also provide information about oversight of transit systems that cross state boundaries. To address these issues, we reviewed program documents and interviewed stakeholders including officials from FTA, TSA, the National Transportation Safety Board, and the American Public Transportation Association. We also surveyed state oversight and transit agencies covered by FTA's program, interviewing 24 of the 25 oversight agencies and 37 of 42 transit agencies across the country.

[www.gao.gov/cgi-bin/getrpt?GAO-06-997T](http://www.gao.gov/cgi-bin/getrpt?GAO-06-997T).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Katherine Siggerud on (202) 512-2834 or [siggerudk@gao.gov](mailto:siggerudk@gao.gov).

## RAIL TRANSIT

### Observations on FTA's State Safety Oversight Program

#### What GAO Found

FTA designed the State Safety Oversight program as one in which FTA, other federal agencies, states, and rail transit agencies collaborate to ensure the safety and security of rail transit systems. FTA requires states to designate an agency to oversee the safety and security of rail transit agencies that receive federal funding. Oversight agencies are responsible for overseeing transit agencies, including reviewing transit agencies' safety and security plans. While oversight agencies are to include security reviews as part of their responsibilities, the TSA also has security oversight authority over transit agencies.

Officials from 23 of the 24 oversight agencies and 35 of the 37 transit agencies with whom we spoke found the program worthwhile. Several transit agencies cited improvements through the oversight program, such as reductions in derailments, fires, and collisions. While there is ample anecdotal evidence suggesting the benefits of the program, FTA has not definitively shown the program's benefits and has not developed performance goals for the program, to be able to track performance as required by Congress. Also, because FTA was reevaluating the program after the September 11, 2001, terrorist attacks, FTA did not keep to its stated 3-year schedule for auditing state oversight agencies, resulting in a lack of information to track the program's trends. FTA officials recognize it will be difficult to develop performance measures and goals to help determine the program's impact, especially since fatalities and incidents involving rail transit are already low. However, FTA has assigned this task to a contractor and has stated that the program's new leadership will make auditing oversight agencies a top priority.

FTA faces some challenges in managing and implementing the program. First, expertise varies across oversight agencies. Specifically, officials from 16 of 24 oversight agencies raised concerns about not having enough qualified staff. Officials from transit and oversight agencies with whom we spoke stated that oversight and technical training would help address this variation. Second, transit and oversight agencies are confused about what role oversight agencies are to play in overseeing rail security, since TSA has hired rail inspectors to perform a potentially similar function, which could result in duplication of effort.

#### Examples of Rail Transit Systems Subject to FTA State Safety Oversight Program



Source: Pennsylvania OCT, Seattle Center Monorail, San Francisco Municipal Railway, GAO.

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Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to provide testimony on the mechanisms in place to oversee the safety and security of the nation's rail transit system. This system moves more than 7 million daily passengers, and, according to Federal Transit Administration (FTA) statistics, accounts for less than 6 percent of all public transportation accidents while providing almost 32 percent of all passenger trips, making it one of the safest forms of public transportation. However, safety and security are still concerns. Although safe, the number of fatalities and accidents has varied over the past few years. For example, between 1999 and 2005, fatalities have ranged from 26 to 57 per year, with an approximate average of 40 per year. In addition, recent acts of terrorism on European and Indian transit systems illustrate the need to maintain high levels of safety and security for transit.

The focus of my testimony today is FTA's State Safety Oversight program. In 1991, Congress required FTA to (1) issue regulations requiring states to designate an oversight agency to oversee the safety and security of rail transit agencies, and (2) withhold federal funds if a state did not comply with the regulations. Through the resulting State Safety Oversight program, FTA requires states to designate an oversight agency to implement FTA safety and security oversight over rail transit agencies.

My testimony today (1) describes how the State Safety Oversight program is designed, (2) identifies what is known about the impact of the program on rail transit safety and security, and (3) identifies any challenges to the State Safety Oversight program. It also provides information on how the State Safety Oversight program functions in areas where transit systems cross state lines (see app. I). My comments are based on our ongoing work for this subcommittee's committee—the House Committee on Transportation and Infrastructure. We plan to release this work soon. To obtain information on how the program is designed and identify what is known about the impact of the program, we reviewed program guidance and interviewed a wide range of stakeholders including FTA, the National Transportation Safety Board (NTSB), the Transportation Security Administration (TSA), and the American Public Transportation Association (APTA), an industry group. To identify challenges facing the program, we conducted interviews with 24 of the 25 state safety oversight agencies across the country and 37 of the 42 operating rail transit agencies.<sup>1</sup> We also visited 8 oversight agencies and 17 transit agencies—of

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<sup>1</sup>One oversight agency and five transit agencies declined to participate in our review.

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these 17 transit agencies, 2 will soon begin operations and 3 cross state boundaries. We conducted our work from August 2005 through June 2006 in accordance with generally accepted government auditing standards.

In summary:

- FTA designed the State Safety Oversight program as one in which FTA, other federal agencies, states, and rail transit agencies collaborate to ensure the safety and security of rail transit systems. FTA requires states to designate a state safety oversight agency and develops and oversees the implementation of rules and guidance on safety and security that the designated agencies are to use to oversee transit operations; however, it does not fund state agencies' ongoing oversight. The designated state oversight agencies directly oversee transit agencies' activities including their safety and security plans. Most commonly, these oversight agencies are state transportation departments, but public utility commissions and regional transportation authorities also serve in this role. Transit agencies develop and implement safety and security plans, assess hazardous conditions, report certain incidents to the oversight agency, conduct self audits, and keep the state oversight agency apprised of corrective actions. Finally, federal agencies including the Department of Homeland Security (DHS) and the Federal Railroad Administration (FRA) also have a role in transit security.
- Almost all oversight and transit agencies report that the State Safety Oversight program is worthwhile in terms of promoting and improving the safety and security of rail transit systems; however, there is limited information showing its impact on safety and security. For example, transit agency officials cite the importance of having state oversight agency staff help them identify larger, systemic issues. Although many officials support the program, FTA's methods for obtaining information on transit safety and security (i.e., transit and oversight agency data and FTA audits of the oversight agencies) do not include performance measures and related program goals. FTA issued annual reports from 1999 through 2003 that track transit accident, crash, fatality, and other safety data, but FTA officials have found it difficult to identify performance measures for the program and set performance goals, because of the relatively low number of fatalities and incidents and the varying design of rail transit systems. Furthermore, in the past 8 years, FTA has audited all oversight agencies in operation before 2004 at least once; however, FTA has not conducted audits as often as it envisioned when it started the program (i.e., once every 3 years). This reduced schedule limits FTA's ability to conduct oversight, including collecting information on the safety oversight agencies and making informed and timely revisions to the program.

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According to FTA officials, they did not keep to their stated audit schedule because they were reassessing the priorities for the program after the September 11, 2001, terrorist attacks. They also noted that they continued conducting "safety and security readiness reviews" to ensure that new transit systems would be able to safely and securely begin passenger operations. Recent changes in FTA's program regulations and leadership provide an opportunity to address this lack of information, performance measures, and program goals, and to resume its stated audit schedule.

- FTA faces challenges in managing and implementing the program. First, the level of state oversight-staff expertise and number of oversight staff (and thus their potential ability to oversee transit agencies), varies widely across the country. For example, one oversight agency requires its staff have at least 5 years of rail transit experience while another oversight agency assigned a state department of transportation planner to work on safety and security oversight as a collateral duty. Although no officials identified a safety or security problem resulting from lack of staff expertise, most transit and oversight agency officials with whom we spoke believe that federal funding for training and an FTA-developed curriculum—including training on how to oversee safety and security—would improve the qualifications and effectiveness of state oversight agency personnel. Furthermore, FTA's approach contrasts with the approach other Department of Transportation (DOT) agencies, such as FRA and the Pipeline and Hazardous Materials Safety Administration (PHMSA) take, which is to provide free training or use agency funds to pay for state agency personnel's attendance at training sessions, in some instances.<sup>7</sup> A second challenge to implementing the program, according to officials from 20 of 24 state oversight agencies and 14 of 37 transit agencies, is the uncertainty about the role of TSA in FTA's program since Congress designated TSA the lead agency on security matters in 2001. Although TSA has regulatory authority over security activities in transportation, its rail program is still developing, and several oversight and transit agency officials with whom we spoke were concerned about the potential for duplication of effort given that state safety oversight agencies and TSA both review and comment on transit systems' security plans. TSA and FTA recognize this concern and have begun discussions on how to coordinate their oversight efforts.

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<sup>7</sup>PHMSA requires new inspectors to complete applicable Transportation Safety Institute (TSI) training courses in a 3-year period.



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## Background

In 1991, Congress passed the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA),<sup>1</sup> which added Section 28 to the Federal Transit Act.<sup>2</sup> ISTEA required FTA to establish a state-managed safety and security oversight program for rail transit agencies. As a result, on December 27, 1995,<sup>3</sup> FTA published a set of regulations, called Rail Fixed Guideway Systems; State Safety Oversight (subsequently referred to as FTA's rule), to improve the safety and security of rail transit agencies. FTA's rule required state oversight agencies to have approved transit agencies' safety plans by January 1, 1997, and security plans by January 1, 1998. At the time of the FTA rule's publication, 5 of 19 states affected by the FTA rule had oversight programs in place for rail transit safety and security, and no oversight agency met all the requirements in FTA's rule. During the first few years of implementation, FTA worked with states to develop compliant programs that addressed FTA's requirements. Ten years after FTA promulgated the initial rule, FTA published a revision to it in the Federal Register on April 29, 2005, which required that oversight agencies had to comply with the revised FTA rule by May 1, 2006.

FTA relies on staff in its Office of Safety and Security to lead the State Safety Oversight program—and hired the current Program Manager in March 2006. This manager is also responsible for other safety duties in addition to the State Safety Oversight program. Additional FTA staff within the Office of Safety and Security assist with outreach to transit and oversight agencies and additional tasks. FTA regional personnel are not formally involved with the program's day-to-day activities, though officials from FTA Regional Offices help address specific compliance issues that occasionally arise and help states with new transit agencies establish new oversight agencies. FTA also relies on contractors to do many of the day-to-day activities, ranging from developing and implementing FTA's audit program of state oversight agencies to developing and providing training classes on system safety.

The revised FTA rule applies to all states with rail fixed guideway systems operating in their jurisdictions. As specified in the FTA rule, a rail fixed guideway system is defined as: "any light, heavy, or rapid rail system;

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<sup>1</sup>P.L. 102-240.

<sup>2</sup>Codified at 49 U.S.C. Section 5330.

<sup>3</sup>Codified at 49 CFR Part 659.

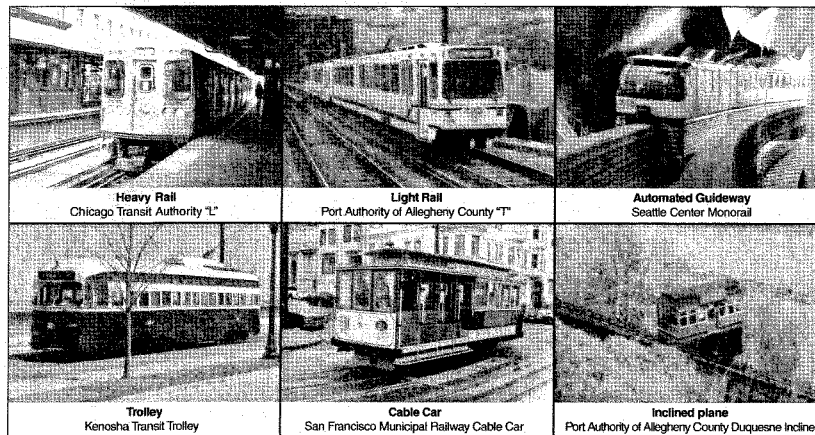
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monorail, inclined plane, funicular, trolley, or automated guideway that is not regulated by FRA and

- is included in FTA's calculation of fixed guideway route miles or receives funding under FTA's formula program for urbanized areas (49 U.S.C. 5336); or
- has submitted documentation to FTA indicating its intent to be included in FTA's calculation of fixed guideway route miles to receive funding under FTA's formula program for urbanized areas (49 U.S.C. 5336)."

Figure 1 shows examples of the types of rail systems that are included in the State Safety Oversight program.

Figure 1: Examples of Rail Systems Included in the State Safety Oversight Program



Source: Pennsylvania DOT; Seattle Center Monorail; San Francisco Municipal Railway; GAO.

FTA's program generally differs from other agencies within DOT, such as the Federal Aviation Administration (FAA), FRA, and PHMSA. These agencies promulgate their own technical standards that govern how vehicles or facilities must be operated or constructed, while FTA does not prescribe technical standards, though the state oversight agencies can develop technical standards.

### Many Agencies Are Involved in the State Safety Oversight Program

FTA designed the State Safety Oversight program as one in which FTA, other federal agencies, states, and rail transit agencies collaborate to ensure the safety and security of rail transit systems. Under the program, FTA is responsible for developing the regulations and guidance governing the program, auditing state safety oversight agencies to ensure the regulations are enforced, and providing technical assistance and other information; FTA provides funding to oversight agencies in only limited instances under the program. State oversight agencies directly oversee the safety and security of rail transit systems by reviewing safety and security

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plans, performing audits, and investigating accidents. Rail transit agencies are responsible for developing safety and security plans, reporting incidents to the oversight agencies, and following all other regulations state oversight agencies set for them. In addition to FTA, federal agencies such as FRA, DHS's Office of Grants and Training, and TSA also have regulatory or funding roles related to rail transit safety and security.

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**FTA Oversees and  
Administers the State  
Safety Oversight Program**

FTA officials stated that they used a multi-agency system-safety approach in developing the State Safety Oversight program.<sup>6</sup> Federal and state agencies and rail transit agencies collaborate to ensure the rail transit system is operated safely and each of these agencies has some monitoring responsibility, either of themselves or another entity. FTA oversees and administers the program. As the program administrator, FTA is responsible for developing the rules and guidance that state oversight agencies are to use to perform their oversight of rail transit agencies. FTA also is responsible for informing oversight and transit agencies of new program developments, facilitating and informing the transit and oversight agencies of training available through FTA or other organizations, facilitating information sharing among program participants, and providing technical assistance.

FTA officials stated they emphasize that components of a risk-management approach to safety and security, such as hazard analysis and risk-mitigation procedures, are included in the program standard that each state oversight agency issues to the transit agencies they oversee. This is consistent with our position that agencies make risk-based decisions on where their assets can best be used, both in transportation security and safety. However, FTA recognizes that some parts of the State Safety Oversight program are not risk-based, including requiring minimum standards for all transit agencies in the program, no matter their size or ridership.<sup>7</sup>

While FTA officials stated that FTA does not inspect transit agencies with regard to safety, it is responsible for ensuring that, through reviews of

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<sup>6</sup>A system-safety approach involves the application of technical and managerial skills to identify, analyze, assess, and control hazards and risks.

<sup>7</sup>FTA states that to ensure a minimum standard is met, a focus on universally applied rules is necessary. Therefore, FTA officials stated that they felt it was inappropriate to use a risk-based approach in this area of the program.

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oversight agency reports and audits, state oversight agencies comply with the program requirements. For example, according to the FTA rule, when a state proposes to designate an oversight agency, FTA may review the proposal to ensure the designated agency has the authority to perform the required duties without any apparent conflicts. FTA has recommended in two instances that a state choose a different agency because the oversight agency that the state proposed appeared to be too closely affiliated with the transit agency and did not appear to be independent. In addition, FTA is responsible for reviewing the annual reports oversight agencies submit. FTA officials ensure they include all the required information—such as descriptions of program resources, and causes of accidents and collisions; they then compile this information for a program annual report, and look for industry-wide safety and security trends or problems. Furthermore, FTA is responsible for performing audits of oversight agencies to ensure they are complying with program requirements and guidance. FTA audits evaluate how well an oversight agency is meeting the requirements of the FTA rule, including whether or not the oversight agency is investigating accidents properly, if it is conducting its safety and security reviews properly, and if it is reporting to FTA all the information that is required.

Finally, FTA does not provide funding to states for the operation of their oversight programs. However, states may use FTA Section 5309 (New Starts program) funds—normally used to pay for transit-related capital expenses—to defray the cost of setting up their oversight agency before a transit agency begins operations. Also, FTA officials stated this year that FTA used a portion of the funding originally designated for FTA audits to pay for one person from each oversight agency to attend training on the revisions to FTA's rule, which oversight agencies had to comply with by May 1, 2006.

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#### State Oversight Agencies Conduct Direct Oversight of Rail Transit Agencies

In the State Safety Oversight program, state oversight agencies are responsible for directly overseeing rail transit agencies. According to the FTA rule, states must designate an agency to perform this oversight function at the time FTA enters into a grant agreement for any "New Starts" project involving a new rail transit system, or before the transit agency applies for FTA formula funding. States have designated several different types of agencies to serve as oversight agencies. Most frequently—in 17 cases—states have designated their departments of transportation to serve in this role. In three instances—California, Colorado, and Massachusetts—states have designated utilities commissions or regulators to oversee rail transit safety and security. According to state officials, since these bodies already had regulatory and

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oversight authority, it was a natural extension of their powers to add rail transit oversight to their responsibilities. Two states have designated emergency management or public safety departments to oversee their rail transit agencies. Officials in one state, Illinois, have designated two separate oversight agencies, both local transportation funding authorities, to oversee the two rail transit agencies operating in the state. In the Washington, D.C. (District of Columbia), region, the rail transit system runs between two states and the District of Columbia. These states and the District of Columbia established the Tri-State Oversight Committee as the designated oversight agency.<sup>8</sup> Finally, one state, New York, has given its oversight authority to its Public Transportation Safety Board (PTSB). PTSB officials said they have authority similar to the public utilities commissions discussed above, but have no other mission than ensuring and overseeing transit safety in New York. See appendix II for a table showing each oversight agency and the rail transit agencies they oversee.

The individual authority each state oversight agency has over transit agencies varies widely. While FTA's rule gives state oversight agencies authority to mandate certain rail safety and security practices as the oversight agencies see fit, it does not give the oversight agencies authority to take enforcement actions, such as fining rail transit agencies or shutting down their operations. However, we found five states where the states granted their oversight agencies some punitive authority over the rail transit agencies they oversee. Officials from oversight agencies that have the authority to fine or otherwise punish rail transit agencies all stated that they rarely, if ever, use that authority, but each stated that they believed it gives their actions extra weight and forced transit agencies to acquiesce to the oversight agency more readily than they otherwise might. The majority of oversight agencies, 19 of the 24 with which we spoke, have no such punitive authority, though officials from some oversight agencies stated they may be able to withhold grants their oversight agencies provide to the transit agencies they oversee.<sup>9</sup> Although officials from several of these agencies stated that they believe they would be more effective if they did

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<sup>8</sup>The Tri-State Oversight Committee has six representatives—two each from Maryland, Virginia, and the District of Columbia.

<sup>9</sup>Officials from 16 oversight agencies stated that they provide some form of grant funding to transit agencies they oversee and that they could, potentially, withhold those grants to force a transit agency to take a particular safety action. However, no oversight agency officials stated that they had taken this step.

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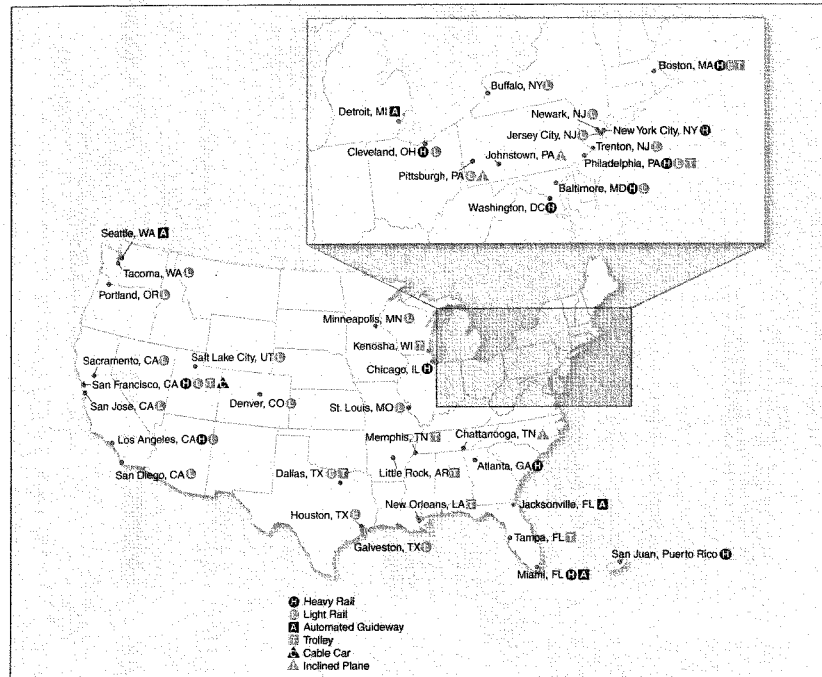
have enforcement authority, under the current program this authority would be granted by individual states.

While the states have designated a number of different types of agencies with varying authority to oversee transit agencies, FTA has a basic set of rules it requires each oversight agency to follow. In the program, oversight agencies are responsible for the following:

- Developing a program standard that outlines oversight and rail transit agency responsibilities, providing "guidance to the regulated rail transit properties concerning processes and procedures they must have in place to be in compliance with the State Safety Oversight program."
- Reviewing transit agencies' safety and security plans and annual reports.
- Conducting safety and security audits of rail transit agencies on at least a triennial basis.
- Tracking findings from these audits to ensure they are addressed, and tracking and eliminating hazardous conditions that the transit agency reports to the oversight agency outside the audit process.
- Investigating accidents that meet a certain damage or severity threshold and developing a corrective action plan for the causes leading to the accident.
- Submitting an annual report to FTA detailing their oversight activities, including results of accident investigations and the status of ongoing corrective actions.

FTA's rule also lays out several specific requirements that oversight agencies must require transit agencies to follow, such as developing separate system safety and security plans, performing internal safety and security audits over a 3-year cycle, developing a hazard management process, and reporting certain accidents to oversight agencies within 2 hours. The locations and types of transit agencies participating in the program are shown in figure 2.

**Figure 2: Locations and Types of Rail Transit Agencies Participating in State Safety Oversight Program**





**Other Federal Agencies  
Play a Role in Ensuring  
Rail Transit Safety and  
Security, but Often Their  
Roles Are Outside the  
State Safety Oversight  
Program**

In addition to FTA, the state oversight agencies, and the rail transit agencies, two entities within DHS are involved in transit safety security. The Aviation and Transportation Security Act (ATSA),<sup>10</sup> passed by Congress in response to the September 11, 2001, terrorist attacks, gave TSA authority for security over all transportation modes, including authority to issue security regulations.<sup>11</sup> While TSA's most public transportation security duties are its airport screening activities, TSA has taken steps to enhance all rail security, including rail transit. For example, in May 2004, TSA issued security directives to rail transit agencies to ensure all agencies were implementing a consistent baseline of security. Also, TSA has hired 100 rail security inspectors, as authorized by Congress.<sup>12</sup> While the exact responsibilities of the inspectors are still being determined, a TSA official stated that they will monitor and enforce compliance with the security directives by passenger rail agencies, as well as increase security awareness among rail transit agencies, riders, and others.

In contrast to the enforcement role of TSA, another DHS agency, the Office of Grants and Training plays a role in ensuring rail transit security through supporting security initiatives. The Office of Grants and Training (formerly known as the Office of Domestic Preparedness) is the primary federal source of security funding for rail transit systems, as well as for state and local jurisdictions; this security funding goes toward the purchase of equipment, support planning and the execution of exercises, and the provision of technical assistance to prevent, prepare for, and respond to acts of terrorism. The Office of Grants and Training has provided over \$320 million to rail transit providers through the Urban Area Security Initiative and Transit Security Grant Program.

FRA, within DOT, also plays a role in ensuring transit agencies operate safely. In general, FRA exercises its jurisdiction over parts of a rail transit system that share track with the general railroad system, or places where a rail transit system and the general railroad system share a connection (e.g.,

<sup>10</sup>Pub. L. No. 107-71, 115 Stat. 597 (2001).

<sup>11</sup>ATSA initially created TSA within DOT. The Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002), transferred TSA to DHS.

<sup>12</sup>These positions were funded through the DHS Appropriations Act of 2005 and its accompanying conference report, which provided TSA with \$12 million in funding for rail security activities.

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a grade crossing).<sup>13</sup> According to FRA, if a rail transit vehicle were to operate on the same tracks and at the same time as general railroads, this would make the rail transit agency operating the vehicle use much sturdier (and more expensive) vehicles. Therefore, 11 rail transit agencies have requested waivers from FRA and, according to an FRA official, as of June 2006, FRA granted waivers to 10 of the 11 rail transit agencies that applied for them.<sup>14</sup>

Finally, NTSB also plays a role in enhancing and ensuring rail transit safety, though it has no formal role in FTA's oversight program. NTSB has authority to investigate accidents involving passenger railroads, including rail transit agencies. NTSB officials stated they generally will investigate only the more serious accidents, such as those involving fatalities or injuries, or those involving recurring safety issues. Often, NTSB accident investigations of rail transit accidents will result in recommendations to federal agencies or rail transit agencies to eliminate the condition that led to the accident.

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**Transit and Oversight  
Agencies Perceive the  
Program as  
Worthwhile; However,  
FTA Does Not Have  
Goals or Performance  
Measures to  
Document the Impact  
of the State Safety  
Oversight Program on  
Safety and Security**

The majority of officials from transit and oversight agencies with whom we spoke agreed that the State Safety Oversight program improves safety and security in their organizations. These officials provided illustrations about how the program enhanced safety or security; however, they have limited statistical evidence that the oversight program improved safety or security. FTA has obtained a variety of information on the program from sources such as national transit data, annual reports from oversight agencies, and its own audits of the oversight agencies. However, these data are not linked to any program goals or performance measures. FTA officials recognize the need for performance measures for its safety and security programs and are taking steps in 2006 to begin to address this need. Finally, although FTA expected to audit the oversight agencies every 3 years, it has not conducted these audits as frequently as it had planned (it has conducted eight audits since September 2001). However, program officials stated they are committed to getting "back on track" to meet the planned schedule.

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<sup>13</sup>FRA clarified its position on safety jurisdiction over shared-track situations. See 65 Fed. Reg. 42529 (Jul. 10, 2000).

<sup>14</sup>FTA provided documentation showing that FRA told the one rail transit agency that did not receive its waiver that its application was unnecessary—what the agency proposed was already allowed under FRA regulations.

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**Transit and Oversight  
Agencies Describe the  
Oversight Program as  
Worthwhile and Valuable**

Both transit agency and oversight agency officials state that FTA's State Safety Oversight program is worthwhile and valuable because it helps them maintain and improve safety and security. Of the 37 transit officials with whom we spoke, 35 believe the program that oversees their safety and security is worthwhile. One transit agency official explained that the oversight agency helps them identify larger, systemic issues. In addition, the program provides support to exert extra influence on a transit agency's board of directors or senior management to get safety or security improvements implemented faster and improve the safety and security of their equipment. For example, one oversight agency helped its transit agency's safety department address problems with train operators running red light signals by helping convincing the transit agency's senior management to replace all signals with light-emitting diode (LED) signals that were brighter and more visible. Finally, transit agency officials believe that FTA's program is an effective method for overseeing safety and security. Several officials said that they felt having a state or local (rather than national) oversight agency facilitated ongoing safety and security improvements and consistent working relationships with the oversight staff.

In addition to transit agency officials, officials from 23 of the 24 state safety oversight agencies with whom we spoke believed that the State Safety Oversight program is valuable or very valuable for improving transit systems' safety and security. Several officials commented that the program provides an incentive to examine safety and security issues and avoid complacency. Furthermore, several officials commented that they believed the current system worked well and that the program provides consistency, endowing the state safety oversight agencies with enough authority to accomplish their tasks. Also, officials said that having the states carry out the program provides on-going oversight in addition to formal audits, which helps maintain a constant oversight of safety and security issues.

Finally, several transit and oversight agency officials stated that, because they were subject to oversight, they believed they saw improved safety in their rail system, but it was difficult to show statistics proving this. For example, the California oversight agency found an 87 percent drop in rail transit collisions at the San Francisco transit agency (MUNI) from 1997,

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when the oversight agency began oversight, to 2005.<sup>15</sup> Although FTA changed its definition of a reportable accident during this time period—making it impossible to determine exactly what impact external oversight had on MUNI safety—both MUNI and the oversight agency staff stated they were confident the oversight efforts had been a major factor in reducing accidents.

APTA officials with whom we spoke were concerned that, although the State Safety Oversight program contains minimum requirements for safety and security, the previous industry-regulated approach encouraged industry officials to surpass minimum standards and continue striving for improved safety and security.<sup>16</sup> However, transit officials with whom we spoke often discussed the benefits of a federal program. In addition, officials from 17 transit agencies reported that their respective state safety oversight agencies imposed requirements above those required in FTA's requirement.

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**FTA Gathers Various Types of Safety Information, but Does Not Have the Data to Document the Impact of the Oversight Program on Safety and Security**

One potential source of information about the State Safety Oversight program's impact on safety and security are data that FTA collects through the annual reports it requires state oversight agencies to submit. The reports include information on many different issues including program resources, accidents, fatalities, injuries, hazardous conditions, and any corrective actions taken resulting from audits or accident investigations. FTA officials stated they have used the oversight agencies' reports to publish their own annual reports on transit safety; however, the information was not tied to any program goals or performance measures. In addition, the 2003 report is the most recent one FTA has issued.

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<sup>15</sup>Prior to the existence of the FTA State Safety Oversight program, California law dictated that the California Public Utilities Commission (CPUC) had oversight authority over rail transit agencies, but exempted municipally operated systems. Since the City of San Francisco operates MUNI, it was not subject to CPUC oversight. However, since 49 CFR Part 659 required that California designate an agency to oversee all rail transit systems receiving federal funds, the governor of California designated CPUC to oversee MUNI in 1997.

<sup>16</sup>Prior the implementation of the State Safety Oversight program, according to APTA, most transit agencies were self-regulated and submitted to occasional APTA-sponsored safety audits as a way of obtaining outside feedback about their safety practices and areas for potential improvement. APTA charged transit agencies for their participation in these audits.

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According to program officials, FTA has recognized the need for better information and performance measures for its safety and security programs and has not published a report since the 2003 report because it has been looking into improving the type of safety and security data it can collect, and how it can use the information to track program performance and progress toward yet to be defined goals. FTA's 2006 business plan for its Safety and Security Division includes a goal to continue developing and implementing a data-driven performance analysis and tracking system to help ensure management decisions are informed by data and focus on performance and accountability. As part of these efforts, FTA officials explained they are working with a contractor who is working with oversight and transit agencies to identify measures that they can use to develop performance measures for the State Safety Oversight program.

Another source of information is the audits of the oversight agencies that FTA had planned to conduct every 3 years. However, the agency has not met this schedule. Although the audits provide detailed information on specific oversight agencies, FTA has not brought together information from these audits to provide information on the safety and security of transit systems across the country. FTA tracks the deficiencies and areas of concern and follows up with oversight agency staff to assure that each state safety oversight agency resolves the suggested corrective actions. Given this lack of consistent audits, we are unsure if FTA has obtained enough information to provide a current picture of transit system safety and security, or a framework to identify potential challenges that oversight and transit agency officials may face in implementing the program. FTA has audited each state oversight agency that existed prior to 2004 at least one time since the program began; two agencies were audited twice. However, FTA largely discontinued the audit program after the September 11, 2001, terrorist attacks and acknowledged that the agency's priorities shifted in the wake of the terrorist attacks. However, officials indicated they continued to evaluate the readiness of rail transit projects to safely and securely enter operations. In addition, according to FTA officials, FTA is not conducting audits in fiscal year 2006 so it can use the money and time to help states comply with the revised FTA rule, and has planned a detailed outreach effort—including a workshop for oversight agency officials—to help ensure compliance. FTA plans to return to its triennial audit schedule in fiscal year 2007, with 10 audits scheduled for the first year to get back on the triennial schedule.

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**FTA Faces Challenges in Managing and Implementing the State Safety Oversight Program**

Despite the program's popularity with participants, FTA faces challenges in implementing the program's revised rule and continuing to manage the program. First, several oversight agency officials stated they are not confident they have adequate numbers of staff to effectively oversee rail transit system safety and security, and they are unsure the current training available to them is sufficient. Also, we found the level of staffing and expertise of oversight agency staff varies widely across the country. A second challenge FTA faces in implementing the program is that many transit and oversight agency personnel are confused about how security issues in the program will be handled, and what agencies will be responsible for what actions, as TSA takes on a greater role in rail transit security.

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**Many Oversight Agency Officials Are Unsure That Their Staff Are Adequately Trained and That They Have Adequate Numbers of Staff**

While a majority of both oversight and transit agency officials with whom we spoke endorsed the usefulness of the State Safety Oversight program, many of these same officials stated that they were unsure that they were adequately trained for their duties. Specifically, officials from 18 of 24 oversight agencies with which we spoke stated they believed additional training would help them provide more efficient and effective safety and security oversight. We found that the level of expertise of oversight agency staff varied widely across the country. For example, 11 of the 24 oversight agencies with which we spoke had oversight staff that had no career or educational background in transit safety or security. Conversely, another 11 oversight agencies required their staff to have certain levels of experience or education. For example, New York's Public Transportation Safety Board requires its staff to have 5 years of experience in transit safety. According to some oversight agency officials who had no previous transit safety or security background, they had to rely on the transit agency staff they were overseeing to teach them about transit operations, safety, and security. These officials stated that if they left their positions, any new staff taking over for them would face a similar challenge.

Therefore, several oversight agency staff cite the lack of a training curriculum for oversight staff as a challenge to their effectiveness. For example, officials from eight oversight agencies stated that the training they had received in transit operations, accident investigations, and other areas was beneficial, but they had not received any training on how to perform oversight functions. Although many oversight agency officials acknowledged that they felt the training that had been made available to

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them either by FTA, the Transportation Safety Institute (TSI), or the National Transit Institute (NTI) had been adequate,<sup>17</sup> officials from 17 of 24 oversight agencies with whom we spoke stated that they were somewhat unsure of which courses they should take to be effective in their oversight role.

Furthermore, although FTA provides training to state oversight agency staff (either on their own or through TSI), and encourages state oversight agencies to seek training opportunities, FTA does not pay staff to travel to these courses. Also, oversight agencies must pay their own tuition and travel expenses for courses not provided by FTA or TSI.<sup>18</sup> Officials from 10 of the 24 oversight agencies with whom we spoke cited a lack of funds as one reason why they could not attend training they had hoped to attend. Also, officials from all 24 oversight agencies stated that, if FTA provided some funding for them to travel to training or paid tuition for training they wanted to attend, it would allow the oversight agencies to spend their limited resources on direct oversight activities, such as staff overtime, travel expenses to visit transit agencies, or hiring contractors. Several oversight agency officials also cited the example of other DOT agencies that provide free training or pay for state staff to travel to attend training. For example, 30 states participate in FRA's State Rail Safety Participation Program. These states have inspectors who FRA has certified to enforce FRA safety regulations. FRA pays for their initial and ongoing classroom training and state staff's travel to this training. In addition, the federal agency regulating pipelines, PHMSA, authorizes state-employed inspectors to inspect pipelines in many states. PHMSA also recently paid for two inspectors from each state to attend training when it instituted a new inspection approach. Officials from both FRA and PHMSA stated that providing funding to states to train their employees helps the federal agencies more effectively carry out their enforcement activities, easing the states' burden of paying to enforce federal regulations. For the first time, FTA paid for oversight agencies' personnel to travel to attend a special meeting in June 2006 in St. Louis, where FTA provided technical assistance and shared best practices in meeting the requirements of the

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<sup>17</sup>TSI is a part of DOT's Research and Innovative Technology Administration. NTI, which FTA funds, is affiliated with Rutgers University and dedicated to training employees of the public transportation industry.

<sup>18</sup>FTA and TSI provide their courses free of charge to transit and oversight agencies but do charge a nominal fee for course books and materials. FTA and TSI also respond to requests to teach courses in field locations, potentially reducing travel costs for participants.

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revised FTA rule. FTA officials agree that they have not provided training specifically pertaining to oversight activities or provided a recommended training curriculum to oversight agencies, but stated that it would not be difficult to take these steps.

FTA officials told us that they considered addressing the lack of consistency in oversight agency staff qualifications when they were revising FTA's rule in 2005; however, they stated they did not have the legal authority to direct states to require certain education, experience, or certifications for oversight agency staff. Furthermore, these officials noted that, despite the lack of formal requirements, FTA checks to ensure oversight agency personnel are adequately trained during its audits, and have recommended in five instances that oversight agency staff take additional training. They also stated that FTA could issue guidance or recommendations to oversight agencies about the level of training their oversight staff should have.

In addition to concerns about training, oversight agencies were unsure they had sufficient numbers of staff to adequately oversee a transit agency's operations. Officials at 14 of 24 oversight agencies with whom we spoke stated that more staff would help them do their job more effectively. Officials from 11 oversight agencies told us they devoted the equivalent of less than one person working half-time on oversight, and, in some cases, described oversight as a "collateral duty." See table 1 for the amount of personnel oversight agency representatives estimated their agencies dedicate to oversight responsibilities. While in some of these instances, the transit agencies overseen are small, some of the transit agencies with the highest ridership levels have similar levels of oversight. For example, one state that estimated it devotes 0.1 full-time equivalent (FTE) to oversight program functions is responsible for overseeing a major transit agency that averages nearly 200,000 daily passenger trips. This state supplements its staff time with the services of a contractor, mainly to perform the triennial audits of the transit agency. Also, one state that estimated devoting 0.5 FTE to oversight functions is responsible for overseeing five transit agencies (including two systems not yet in operation) in different cities, making it difficult to maintain active oversight when their responsibilities are so spread out. As FTA resumes its audit schedule, it would be practical for FTA to focus on this issue. (See app. II for information on estimated FTE and transit system information for each state safety oversight agency and related transit agency).



**Table 1: Estimated FTEs Used by Oversight Agencies to Oversee Transit Agency Safety and Security**

Estimated FTEs	0.5 or less	0.6–1	1.1–3	3.1–5	Over 5	Total
Number of oversight agencies	11	5	6	1	1	24

Source: GAO analysis of oversight agency interview responses.

**Transit and Oversight Agency Staff Are Uncertain How TSA's Emerging Role in Transit Security Will Affect the Program**

Another challenge facing the program is how TSA and its rail inspectors might affect oversight of transit security. As I mentioned earlier, TSA has regulatory authority over transportation security, and, according to TSA officials, has hired 100 rail inspectors, who are to monitor and enforce compliance with rail security directives TSA issued in May 2004. However, of the officials at 24 oversight agencies with whom we spoke, officials at 20 agencies stated they did not have a clear picture of who was responsible for overseeing transit security issues. Similarly, officials at 14 of 37 transit agencies were also unsure of lines of responsibility regarding transit security oversight. Several state oversight agencies were particularly concerned that TSA's rail inspectors would be duplicating their role in overseeing transit security. One oversight agency official stated it would be more efficient if TSA and oversight agency staff audited transit agencies' security practices at the same time.

TSA staff reported hearing similar comments from oversight agencies; FTA program staff and TSA rail inspector staff both indicate that they are committed to avoiding duplication in the program and communicating their respective roles to transit and oversight agency officials as soon as possible. However, as TSA is still developing its program, currently there is no formally defined role for TSA in the State Safety Oversight program, and TSA has not determined the roles and responsibilities for its rail inspectors. While FTA's rule discusses requirements for a transit agency's security plan, it does not discuss TSA's specific role in the program, and both TSA and FTA officials state that exactly how TSA would participate in the program was still to be determined. However, the officials added that they are working together to ensure inspection activities are coordinated, thereby fostering consistency and minimizing disruption to rail transit agency operations. For example, in May 2006, TSA's director of the rail inspector program reported that it had designated 26 rail inspectors as liaisons to state oversight agencies. Also, these TSA rail inspectors attended a training session where FTA presented information on the State Safety Oversight program, and they have contacted 13 oversight agencies to begin discussions on how they can coordinate activities.

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Mr. Chairman, this concludes my statement. I plan to include recommendations to address these challenges in the report we plan to issue next week. I would be pleased to answer any questions that you or other Members of the Subcommittee may have at this time.

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### Contact Information

For further information on this testimony, please contact Katherine Siggerud at (202) 512-2834 or [siggerudk@gao.gov](mailto:siggerudk@gao.gov). Individuals making key contributions to this testimony include Ashley Alley, Catherine Colwell, Colin Fallon, Michele Fejfar, Joah Iannotta, Stuart Kaufman, Joshua Ormond, Tina Paek, Stephanie Purcell, and Raymond Sendejas.

## Appendix I: Case Studies of Multi-State Transit Systems

Three rail fixed guideway transit systems in the United States—the Port Authority Transit Corporation (PATCO) in Philadelphia, MetroLink in St. Louis, and the Washington Metropolitan Area Transit Authority (WMATA) in Washington, D.C. (District of Columbia)—cross state lines and require the collaboration of multiple oversight agencies to run the State Safety Oversight program; alternatively, states can agree that one state will be responsible for oversight of the transit system. Each of these multi-state transit systems has a different structure to handle oversight responsibilities. The oversight programs in Philadelphia and St. Louis have both developed strategies to centralize decision making, streamline collaboration, and respond promptly to safety and security audit findings. In contrast, the Tri-State Oversight Committee (TOC), which serves as the oversight agency in the District of Columbia area, requires majority decision making by the six committee members of the agency, including at least one member from each jurisdiction. However, WMATA has experienced difficulty obtaining funding, responding to FTA information requests, and ensuring audit findings are addressed.

### Multi-State State Safety Oversight Agencies Have Varied Structures and Handle Oversight Responsibilities Differently

Each multi-state oversight program varies in structure and each performs oversight responsibilities differently. In Philadelphia, authority to serve as the oversight agency was delegated to one of the two state agencies—namely, the Pennsylvania Department of Transportation (PennDOT) agreed to allow the New Jersey Department of Transportation (NJDOT) to serve as the sole oversight agency for the PATCO heavy rail transit line. MetroLink in St. Louis is subject to oversight from both Illinois (through the St. Clair County Transit District) and Missouri (through the Missouri Department of Transportation); the two organizations share oversight duties. Finally, TOC, which is composed of multiple representatives from each jurisdiction (including Virginia, Maryland, and the District of Columbia), provides oversight for WMATA.

The PATCO Speedline is a heavy rail line serving about 38,000 riders daily and links Philadelphia to Lindenwold, New Jersey. Most of PATCO's track is in New Jersey, and 9 of the 13 stations are in New Jersey. Until early 2001, safety and security oversight functions were shared by Pennsylvania and New Jersey through the Delaware River Port Authority (DRPA), a regional transportation and economic development agency serving both Southeastern Pennsylvania and southern New Jersey. When DRPA implemented organizational and functional changes, DRPA leadership no longer believed that DRPA could perform its role as the designated oversight agency without facing conflicting interests. As a result, Pennsylvania and New Jersey agreed to have NJDOT replace DRPA as the

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oversight agency. This arrangement allows the oversight agency to take corrective action without seeking additional levels of approval from Pennsylvania, although the oversight agency does keep Pennsylvania informed of its activities. Also, Pennsylvania provides some support to NJDOT by having PennDOT perform oversight functions for the stations, passageways, and concourses located in Pennsylvania. PennDOT reports any deficiencies or hazardous conditions that may be noted during the performance of oversight directly to New Jersey. Through meetings or other means of communication, the follow-up actions may be performed by the Pennsylvania oversight agency in a supporting role or directly by New Jersey. New Jersey currently devotes two full-time staff members and one part-time staff member to its oversight program, and while these staff members must oversee several transit systems, including PATCO, their sole responsibilities are for safety and oversight functions.

The St. Louis MetroLink is a light rail line between Lambert–St. Louis International Airport in St. Louis and Scott Air Force Base outside Shiloh, Illinois. Service was initiated in 1993, at which time the system included about 16 miles of track in Missouri and about 1.5 miles of track in Illinois. Because so little track was in Illinois, Illinois officials agreed to allow the Missouri Department of Transportation to provide safety and security oversight for the entire system. However, in 2001, MetroLink opened a 17.4-mile extension in Illinois, which roughly equalized the amount of track in both states. Because of this, the states agreed that it was appropriate for Illinois to play a greater role in safety and security oversight, and Illinois designated the St. Clair County Transit District as its oversight agency. St. Clair is one of the few non-state-level agencies to be an oversight agency. The involvement of two separate oversight agencies could create challenges to effective implementation, but the agencies have taken steps to ensure close coordination. First, the Illinois and Missouri oversight agencies have agreed to use only one uniform safety and security standard across the entire MetroLink system.<sup>1</sup> According to area officials, this arrangement creates consistency throughout the system and allows both agencies to perform their oversight functions in a consistent manner. In addition, the agencies use a single contractor who is responsible for the triennial audit. All other work is performed by the Illinois and Missouri

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<sup>1</sup>In the most recent revision to 49 CFR Part 650, the Rail Fixed Guideway Systems: State Safety Oversight rule, governing the State Safety Oversight program, FTA mandated that in areas where transit agencies ran through multiple states, the states coordinate to ensure they use the same program standard for the transit agency to meet. This way one transit agency does not have to meet two separate standards in different parts of their system.

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oversight agencies. Finally, staff from the two oversight agencies coordinate very closely and each have centralized leadership. Specifically, there is one full-time employee in Missouri who devotes 90 percent of his time to safety and security oversight activities. Illinois has several employees who devote smaller percentages of their individual time to the program, but the Managing Director is primarily responsible for coordinating with Missouri. MetroLink, in turn, indicated that responding to state safety oversight directives is a priority, and the agency works quickly to implement changes.

WMATA operates a heavy rail system within the District of Columbia, Maryland, and Virginia. The states and the District of Columbia decided to carry out their oversight responsibilities through a collaborative organization managed by TOC. TOC is composed of six representatives—two each from Maryland, Virginia, and the District of Columbia. All of the representatives have other primary duties, and their activities on TOC are collateral to these other daily duties, as is the case with staff at several other oversight agencies. TOC does not have any dedicated staff, and TOC members have limited rail operational experience. To gain access to additional experience and expertise in rail oversight, TOC contracts with a consultant to provide technical knowledge, perform required audits of WMATA, and ensure that audit recommendations are completed. In addition, TOC funding comes from, and must be approved by, each of the jurisdictions every year. The Washington Council of Governments processes TOC funds and handles their contracting procedures. These issues result in a lengthy process for TOC to receive its yearly funding and process its expenses.

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**Multi-State Oversight Programs Have Addressed Their Administrative Challenges in Different Ways**

The State Safety Oversight programs in Philadelphia and St. Louis have attempted to streamline their decision making, while TOC has a more collaborative process. Philadelphia and St. Louis have both developed strategies to centralize decision making and streamline collaboration, albeit through different structures. Because Pennsylvania granted New Jersey the authority to act as the oversight agency for all of PATCO's territory, PATCO only has to interact with one oversight agency's staff. New Jersey also has in-house staff dedicated to the State Safety Oversight program, which helps to ensure continuity, facilitates communication, and provides PATCO with one set of contacts to work with on the implementation of any new safety or security processes. Although St. Louis has two agencies providing safety oversight, both oversight agencies have made it a priority to ensure that they are providing consistent information to the transit agency, and they are coordinating their activities

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so MetroLink is not burdened by multiple contacts about the same issue. To do this, the Missouri and Illinois representatives stay in close contact with each other. Both oversight agencies stated they have in-house staff dedicated to safety and security oversight, and the agencies have very good working relationships. Oversight agency staff admitted that St. Louis could face challenges in the future if staff turned over in either agency and new employees did not establish a similar working relationship. In addition, officials indicated that, if oversight agency staff had disagreements over safety or security standards, or how to enforce the existing standards, it would be highly problematic. However, officials in the Illinois and Missouri oversight agencies, as well as at MetroLink, thought that the current arrangements have produced one set of standards, good communication, and effective coordination. Both MetroLink and oversight agency staff in St. Louis credited each other with creating an environment where this system of having multiple oversight agencies could work well.

In contrast, TOC has implemented a less streamlined process for making decisions, which, according to FTA and TOC officials, may have contributed to the difficulties it has had in responding to FTA information requests. On June 15, 2005, FTA notified TOC that it would perform TOC's audit in late July 2005. FTA requested information prior to the audit to facilitate the time it spent on-site. TOC did not submit the requested State Safety Oversight program materials despite several FTA requests and an extension by FTA to move the audit to a later date. At the end of August, FTA initiated its audit even though it had not received requested information, but was not able to complete the audit until the end of September, when it received all requested materials. FTA's Final Audit Report to TOC cited 10 areas for improvement and provided TOC 60 days to resolve these issues. According to FTA, TOC resolved one issue within the time period. FTA held a follow-up review with TOC in mid-March to check on the status of the remaining areas for improvement. As of June 2006, FTA was evaluating how many of the remaining audit findings remained open, although FTA stated that TOC had created a detailed set of internal operating procedures to address many of FTA's findings and concerns. In addition, TOC representatives stated that some of the areas for improvement FTA found were complicated issues, such as reviewing WMATA's accident investigation procedures and approving modifications, and could not be addressed within the 60 days FTA initially allowed. TOC staff emphasized that, although WMATA was sometimes slow to respond to TOC audit recommendations or information requests, they were pleased with their relationship with WMATA and that WMATA was responsive to

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TOC. Similarly, FTA officials stressed that they recognized and appreciated the effort TOC had undertaken in addressing FTA's findings.

TOC staff credited WMATA with helping TOC develop a matrix to track outstanding recommendations and agreeing to meet via conference call on at least a bi-weekly basis to ensure the issues are addressed. Also, TOC members stated that part of the reason they were slow to respond to FTA's initial requests was that TOC had spent all its allocated funds for the year and, consequently, they had to temporarily stop working with the consultant who had conducted its audits of WMATA and maintained their files. According to TOC officials, since the process for acquiring additional funding would require approval from all three jurisdictions represented on TOC, it was not feasible to obtain additional funding quickly. In addition, TOC cannot take any action without a majority of its members, and at least one member from each jurisdiction, approving the action. Reaching such majority agreements can be time consuming since all members of TOC have other primary responsibilities. This is especially a concern when quick decisions are necessary, such as responding to FTA's audit recommendations.

TOC officials cited several challenges in accomplishing their mission, including lack of a dedicated and permanent funding source, the lengthy process required to obtain approval on planning and implementation of corrective actions, and limited staff time. They also stated that they believed TOC and WMATA receive more scrutiny than other transit and oversight agencies, due to their location in the District of Columbia, and their proximity to FTA's headquarters staff. To address these challenges, the chair of TOC stated that she planned to spend additional time overseeing WMATA and was hoping to work to find ways to streamline the administrative and funding processes that TOC must navigate. Hiring a full-time administrator, or designating a TOC member to serve in a full-time capacity, could help solve some of these issues. However, funding this position could be a challenge, and the administrator would need to have decision-making authority to be effective and act quickly.

## Appendix II: List of State Oversight Agencies and Transit Agencies They Oversee

State	State safety oversight agency (estimated FTE)	Rail transit agency (estimated FTE)	City center served	Type of system	Annual ridership and directional route miles
Single state systems					
Arkansas	Arkansas State Highway and Transportation Department (0.5)	Central Arkansas Transit Authority (0.08)	Little Rock, AR	Trolley	159,458 2.8
California	California Public Utilities Commission (9.6)	Bay Area Rapid Transit (7)	San Francisco, CA	Heavy rail	99,296,028 209
		Los Angeles County Metropolitan Transportation Authority (1.5)	Los Angeles, CA	Heavy rail and light rail	74,242,912 141.6
		San Francisco Municipal Railway (7)	San Francisco, CA	Light rail, trolley, and cable car	53,768,895 81.7
		San Diego Trolley, Inc. (0.9)	San Diego, CA	Light rail	29,334,362 96.6
		Sacramento Regional Transit District (N/A)	Sacramento, CA	Light rail	12,008,620 58.4
		Santa Clara Valley Transit Authority (N/A)	San Jose, CA	Light rail	6,780,431 58.4
Colorado	Colorado Public Utilities Commission (1.2)	Denver Regional Transit District (1.25)	Denver, CO	Light rail	11,142,220 31.6
Florida	Florida Department of Transportation (1)	Metro-Dade Transit Authority (N/A)	Miami, FL	Heavy rail and automated guideway	26,479,423 53.5
		Jacksonville Transportation Authority (N/A)	Jacksonville, FL	Automated guideway	736,510 5.4
		Hillsborough Area Regional Transit (0.85)	Tampa, FL	Trolley	565,002 4.8
Georgia	Georgia Department of Transportation (0.1)	Metropolitan Atlanta Rapid Transit Authority (6)	Atlanta, GA	Heavy rail	70,984,053 96.1
Illinois	Regional Transportation Authority (1)	Chicago Transit Authority (11)	Chicago, IL	Heavy rail	186,759,524 206.3
Louisiana	Louisiana Department of Transportation (0.1)*	New Orleans Regional Transit Authority (N/A)	New Orleans, LA	Trolley	5,667,952 25.3



State	State safety oversight agency (estimated FTE)	Rail transit agency (estimated FTE)	City center served	Type of system	Annual ridership and directional route miles
Maryland	Maryland Department of Transportation (1.3)	Maryland Transit Administration (5)	Baltimore, MD	Heavy rail and light rail	18,059,117 87
Massachusetts	Massachusetts Department of Telecommunication and Energy (2.67)	Massachusetts Bay Transportation Authority (5.1)	Boston, MA	Heavy rail, light rail, and trolley	215,787,440 127.3
Michigan	Michigan Department of Transportation (0.5)	Detroit Transit Corporation (1.1)	Detroit, MI	Automated guideway	1,340,646 2.9
Minnesota	Minnesota Department of Public Safety (0.1)	Hiawatha Metro Transit (1-1.5)	Minneapolis, MN	Light rail	7,901,668 24.4
New Jersey	NJDOT (2-3)	New Jersey Transit Newark City Subway (0.5)	Newark, NJ	Light rail	14,312,676 99.9 <sup>a</sup>
		New Jersey Transit Hudson-Bergen Light Rail (N/A)	Jersey City, NJ	Light rail	
		New Jersey Transit River Line (2)	Trenton, NJ	Light rail	
New York	New York Public Transportation Safety Board (3.5)	New York City Transit (15)	New York City, NY	Heavy rail	1,803,536,486 493.8
		Niagara Frontier Transit Authority (0.5)	Buffalo, NY	Light rail	5,373,321 12.4
Ohio	Ohio Department of Transportation (1)	Greater Cleveland Regional Transit Authority (1.2)	Cleveland, OH	Heavy rail and light rail	8,236,840 68.5
Oregon	Oregon Department of Transportation (1.2)	Portland Tri-Met (10)	Portland, OR	Light rail	34,755,147 92.9 <sup>a</sup>
		Portland Streetcar (0.5)	Portland, OR	Light rail	
Pennsylvania	PennDOT (0.5)	Southeastern Pennsylvania Transit Authority (2)	Philadelphia, PA	Heavy rail, light rail, and trolley	113,252,100 141.1
		Port Authority of Allegheny County (0.3)	Pittsburgh, PA	Light rail and inclined plane	8,072,099 45.8
		Cambria County Transit Authority (1)	Johnstown, PA	Inclined plane	86,031 0.3

State	State safety oversight agency (estimated FTE)	Rail transit agency (estimated FTE)	City center served	Type of system	Annual ridership and directional route miles
Puerto Rico	Puerto Rico State Emergency and Disaster Management Agency (3)	Puerto Rico Highway and Transportation Authority Tren Urbano (1.6)	San Juan, Puerto Rico	Heavy rail	2,182,668 (N/A)
Tennessee	Tennessee Department of Transportation (0.25)	Chattanooga Area Rapid Transit Authority (N/A)	Chattanooga, TN	Inclined plane	435,780 2
		Memphis Area Transit Authority (0.3)	Memphis, TN	Trolley	1,015,448 10
Texas	Texas Department of Transportation (0.4)	Galveston Island Transit (0.25)	Galveston, TX	Light rail	47,706 4
		Dallas Area Rapid Transit (0.75)	Dallas, TX	Light rail and trolley	17,487,057 87.7
		Metropolitan Transit Authority of Harris County (2)	Houston, TX	Light rail	10,233,638 14.8
Utah	Utah Department of Transportation (0.8)	Utah Transit Authority (1.5)	Salt Lake City, UT	Light rail	13,101,791 37.3
Washington	Washington State Department of Transportation (0.35)	Sound Transit Tacoma Link (N/A)	Tacoma, WA	Light rail	884,895 3.6
		Seattle Center Monorail (0.02)	Seattle, WA	Automated guideway	1,506,240 <sup>c</sup> 1.8
Wisconsin	Wisconsin Department of Transportation (0.3)	Kenosha Transit (0.85)	Kenosha, WI	Trolley	68,209 1.9
Multi-state systems					
Illinois and Missouri	St. Clair County Transit District (0.25-0.5) and Missouri Department of Transportation (0.9)	Bi-State Development Agency - St. Louis Metro (2)	St. Louis, MO	Light rail	15,648,233 75.8
New Jersey and Pennsylvania	NJDOT (2-3)	Port Authority Transit Corporation (1)	Philadelphia, PA	Heavy rail	9,362,839 31.5
Maryland, Virginia, and Washington, DC	PennDOT (0.2)	Washington Metropolitan Area Transit Authority (1)	Washington, DC	Heavy rail	259,430,055 206.6

Sources: GAO interviews and National Transit Database

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Notes: Full-time equivalent (FTE) data comes from our interviews with oversight agencies and transit agencies. The data do not include contractor staff that assist transit or oversight agencies, though several agencies reported using contractors. Data on ridership is current as of 2005, and includes the total number of passengers boarding the rail system annually (also known as "unlinked passenger trips") as provided by FTA. Directional route miles—the miles of track in each direction over which transportation vehicles travel while carrying passengers—are current as of 2004, and were obtained from data published by FTA in the National Transit Database. The data in this table are presented for background purposes and were not verified. FTA defines trolley operations as "light rail" for statistical purposes. However, to differentiate between vintage trolley operations and modern light rail operations, we have created separate categories for them in this chart.

N/A = Not available

<sup>1</sup>Because we were not able to speak with the oversight agency, FTE data was provided by FTA.

<sup>2</sup>Annual unlinked passenger trips and directional route miles represent the total for all systems within a transit agency.

<sup>3</sup>According to agency officials, the ridership data presented in this table represents a year when the monorail was out of service for an extended period and does not reflect the normal use of the system. In prior years the number of annual unlinked passenger trips exceeded about 2 million.