

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: *

WMATA SMOKE AND ELECTRICAL ARCING *

ACCIDENT IN WASHINGTON, D.C. *

* * * * *

Board Room and Conference Center
 National Transportation Safety Board
 429 L'Enfant Plaza East, S.W.
 Washington, D.C.

Wednesday
 June 24, 2015

The above-entitled matter came on for hearing,
 Pursuant to Notice at 9:00 a.m.

BEFORE: NTSB BOARD OF INQUIRY

APPEARANCES:

NTSB BOARD OF INQUIRY

CHRISTOPHER A. HART, Chairman
 T. BELLA DINH-ZARR, Vice Chairman
 ROBERT L. SUMWALT, Member
 EARL F. WEENER, Ph.D., Member

NTSB STAFF

KRISTIN POLAND, Ph.D., Hearing Officer
 BENJAMIN ALLEN, Assistant General Counsel
 MIKE FLANIGON, Chair, Panel 3
 LOREN GROFF, Ph.D.
 RICK NARVELL
 MARK JONES, Chair, Panel 4
 MIKE HILLER
 CARL SCHULTHEISZ, Ph.D.

PARTY REPRESENTATIVES

THOMAS LITTLETON, Federal Transit Administration (FTA)
 KLARA BARYSHEV, Tri-State Oversight Committee (TOC)
 JAMES DOUGHERTY, Washington Metropolitan Area Transit
 Authority (WMATA)
 MARLENE FLEMMINGS-McCANN, Amalgamated Transit Union
 Local 689 (ATU Local 689)
 JAMES MADARAS, ATU Local 689
 DABNEY HUDSON, International Association of Fire
 Fighters Local 36 (IAFF Local 36)
 CHRISTOPHER GELDART, District of Columbia Emergency
 Services (D.C. EMS)
 JOSEPH TEBO, Tri-State Oversight Committee (TOC)
 KIMBERLY BURTCH, Federal Transit Administration (FTA)

WITNESS PANEL 3: WMATA's Organizational Culture

ROBERT TROUP, WMATA
 RONALD PAVLIK, JR., WMATA
 JOSEPH GIULIETTI, Metro-North Railroad
 JAMES MADARAS, ATU Local 689

APPEARANCES:

WITNESS PANEL 4: FTA and Tri-State Oversight Committees
Efforts for Public Transportation Safety

THOMAS LITTLETON, FTA

KLARA BARYSHEV, TOC

ROBERT LAUBY, P.E., Federal Railroad Administration
(FRA)

DAVID KEAY, Office of Rail Regulations, United Kingdom

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P R O C E E D I N G S

(9:00 a.m.)

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3 CHAIRMAN HART: Good morning, everyone. Welcome back to
4 the second day of the WMATA Investigative Hearing.

5 Dr. Poland, could you please give us the housekeeping
6 and safety announcements and then introduce the third panel?

7 DR. POLAND: Of course. Thank you, Chairman Hart.
8 Again, let's start with safety. Please note the nearest emergency
9 exit. You can use the rear doors that you came through to enter
10 the conference center. There are also a set of emergency doors on
11 either side of the stage up front. Again, there's an AED in the
12 lobby.

13 For courtesy and planning considerations, if you have
14 not already done so, please silence your electronic devices. I'll
15 do my own, as I say that. Please plan for a 30-minute morning
16 break at 10:00 a.m. and a lunch break from noon to 1:30 p.m. The
17 30-minute afternoon break will begin at about 2:30 p.m.

18 Chairman Hart, the third panel will address WMATA's
19 organizational culture. The panel will address WMATA's focus on
20 safety, their organizational structure and internal
21 communications, WMATA's advances since previous accidents, and
22 also the experiences of a nearby operator, Metro-North Railroad.

23 Witness Panel 3 is composed of the following
24 individuals, from my left, nearest the Board members: Chief
25 Ronald Pavlik, WMATA; Mr. Robert Troup, WMATA; Mr. James Madaras,

1 Amalgamated Transit Union Local 689; and Mr. Joseph Giuliatti,
2 Metro-North Railroad.

3 The NTSB Technical Panel is composed of, starting on my
4 left: Mr. Mike Flanigon, the panel chairman; Dr. Loren Groff; and
5 Mr. Rick Narvell.

6 I now ask that the witnesses please stand to be sworn.

7 (Witnesses sworn.)

8 DR. POLAND: Please be seated.

9 Chairman Hart, these witnesses have been prequalified
10 and their respective experience and qualifications appear in the
11 docket as exhibits in Group B.

12 CHAIRMAN HART: Thank you, Dr. Poland. I have an
13 administrative housekeeping question.

14 DR. POLAND: Yes, please.

15 CHAIRMAN HART: With James Madaras as a witness, who
16 will be the spokesperson for the Amalgamated Transit Union this
17 morning?

18 DR. POLAND: We have two substitutes this morning for
19 our spokesperson: Ms. Marlene Flemmings-McCann will act as the
20 party spokesperson for the Amalgamated Transit Union Local 689 and
21 Ms. Nicole Chapple will act as the party spokesperson during the
22 first morning session for the District of Columbia party.

23 CHAIRMAN HART: Thank you.

24 DR. POLAND: As a reminder to the witnesses, please push
25 the microphone button to talk and then push it again when

1 finished. Also, please answer the questions factually and avoid
2 analysis.

3 I now turn the questioning over to Mr. Mike Flanigon.

4 MR. FLANIGON: Thank you, Dr. Poland.

5 We'll begin with some questions for Mr. Troup. In the
6 Fort Totten investigation, we found configuration management
7 issues with track circuit verification procedures. And in this
8 investigation there were inconsistencies in the understanding and
9 application of OCC ventilation procedures, ventilation maintenance
10 testing protocols, as well as in the installation of power cable
11 connection boots. And while WMATA has taken steps to address each
12 of these individually, my question is how does organizational
13 culture change figure into addressing these kinds of patterns and
14 inconsistencies on a more fundamental basis?

15 MR. TROUP: Mr. Flanigon, thank you. And before I
16 answer that question, I would like to take a moment to say to the
17 entire -- the entire WMATA family expresses our sincere
18 condolences to the family and friends of Carol Glover. We
19 recognize and sympathize with the depth of their loss.

20 In regards to that question, Mr. Flanigon, I think when
21 -- I came to WMATA 4½ years ago and what I saw at WMATA was an
22 organization that was willing to change their safety culture.
23 What I recognized was a board that had committed themselves to
24 organizing around the safety mandate. Remember, our mission is to
25 provide safe and reliable service to our passengers, safety being

1 the operative word there. So when we looked at that and when I
2 came in, as a former ATC engineer, the Fort Totten accident, you
3 know, I recognized what -- any failures that occurred there and
4 how to fix them. And what we did was, with my deputy chief ATC
5 engineer, Nick Croce, we developed what we called the WMATA 1000.

6 WMATA 1000 is modeled after the -- similar to the Class
7 I railroads, what they basically refer to as their 27 document,
8 which is essentially guided by FRA C.F.R. 234 and 236 documents,
9 which are regulatory in nature. So the FRA regulates the Class I
10 railroads and we were taking that same model and we're applying it
11 to the transit. Because, remember, when you do a PMI, preventive
12 maintenance inspection, on a switch, you may grease the switch,
13 put graphite down on the switch points, and you may do a switch
14 obstruction test on the switch points. What the most critical
15 safety aspect of that is, is being able to do the switch
16 obstruction test. Not greasing the switch does not represent a
17 safety issue; however, not doing a switch obstruction test
18 properly and having a switch obstruct properly is a safety issue.
19 So what we did is we engaged the engineering department, we
20 engaged the field level personnel, to make sure that the systems
21 and processes that we could put forward would be able to be
22 executable; most importantly, executable. We don't want to put
23 anything out there that we can't execute.

24 So we developed the 1000, which is a self-regulatory
25 document that we use that moves these safety issues to a much

1 higher level: monthly tests, quarterly tests, annual tests,
2 biannual tests. In addition, we set up a process for the
3 engineering department to be able to do audits and we are
4 expanding our QAW department into -- from our vehicle engineering
5 to be able to do the same thing for our infrastructure personnel.

6 So organizationally, the way that you do that is you
7 start developing these kinds of processes and procedures that
8 engage every level of the organization, and that's important.
9 You've got to engage every level of the organization in this and
10 that's what we did there. We are expanding those programs out,
11 you know, we are going to develop the PLNT 1000, which will deal
12 with the fire and life safety issues. We had originally had our
13 fire and life safety work orders rise to a higher level of
14 magnitude so that they were identified as critical work orders
15 that needed to get done.

16 So by looking at it comprehensively, engaging everybody
17 within the departments, engaging the safety department in this --
18 safety sign-offs are done on a 1000. We took the model for the
19 ATC 1000 and we developed the TRST 1000, which is essentially the
20 same thing for the track department. It's identifying the
21 processes, procedures, that need to be completed for those.
22 Again, we are expanding them, you know, it's an expansion program
23 that we're doing on that so that the documentation is going to
24 look and feel the same. The training elements, the way that we
25 train, are going to look and feel the same. So consistency was

1 one of the major components of creating an organization, you know,
2 that's centered around safety on that.

3 MR. FLANIGON: Thank you.

4 Kind of continuing on in somewhat the same vein,
5 sometimes organizational units, departments or sub-departments,
6 tend to become insular in an organization and it's often referred
7 to as a silo effect. And so my question is how are you addressing
8 breaking down and preventing silos between the operations control
9 center, the field operations folks, the WMATA police, and the
10 emergency manage department? And if you could just briefly go
11 over the activities there.

12 MR. TROUP: Certainly, I can. And so there's a number
13 of ways to do that and first is to get functioning within the
14 department yourself, and then as those departments become
15 functional, to be able to expand that out. Again, this is to be
16 able to expand these elements out.

17 We do some very deliberate things within the GGMO
18 organization and through WMATA as a whole. If I can take you --
19 every morning we have a 7:30 morning meeting. 7:30 morning
20 meeting deals specifically with any failures that were out there
21 that were occurring. Within that morning meeting we have
22 engineering and we have all the maintenance departments that get
23 together, we talk, we recognize the issues that are going on, we
24 look for patterns within those issues, we have conversations
25 regarding means and methodologies to be able to take care of those

1 issues. So that 7:30 meeting, again, happens every morning that
2 we deal with that. So that's a way to work very locally to break
3 down those silos. There are silos interdepartmentally between,
4 like, let's say power and track or system maintenance and track.

5 You know, I've often said that the railroad is very much
6 like an organism. The failure of one component which -- you know,
7 for the track, for example, the failure of one component may
8 cause, you know, a track circuit to not operate properly or, you
9 know, the failure of a return mechanism may cause a track circuit
10 to fault, so it's important we look at the railroad
11 comprehensively. That's what this meeting does. It gets
12 engineering involved, it gets the maintenance departments
13 involved, and it does it cross-discipline.

14 In addition, we have our delay meeting. The delay
15 meeting happens every Wednesday at 4:00 and we go in and we talk
16 about all the delays that we have over 10 minutes on the property.
17 Within that meeting, we have the rail operations personnel come
18 in, in addition to the aforementioned people from the morning
19 meeting. We come in, we talk about the delays, we talk about the
20 different elements of those delays, what caused those delays and
21 how we can better manage, first of all, the prevention of them and
22 then when they do occur, what do we need to be able to do to
23 manage against when a delay does occur.

24 We have our executive safety meetings with the Executive
25 Safety Committee -- our chief safety officer, Jim Dougherty, runs

1 those -- and that's where we have representatives from all these
2 departments come in, in addition to the Local 689 representation
3 comes in. We talk about safety issues, the regular agenda of
4 items or safety issues that may be there, in addition to any
5 safety incidences, you know, which may occur.

6 With the Transit Police, the chief and I have a very
7 close relationship in regards to being able to discuss any items
8 that go on there. We work continuously and very intentionally on
9 a lot of the events that occur within the Washington, D.C. region,
10 any of the larger events, like the Concert for Valor, for example.
11 We recently had the Concert of Valor; we had tabletop exercises,
12 we had exercises that where we dealt with crowd control, where we
13 dealt with our ability to manage people, contingency plans, if
14 they happen. This happens continuously with these events, these
15 large events that we have.

16 So there's a very intentional process for those. I
17 would say, probably with all the events we have, we have at least
18 five or six meetings every year, specifically with the rail
19 operations people, the rail maintenance and engineering folks, and
20 the Transit Police and Office of Emergency Management, to get
21 together and understand those processes. We have, within the ROCC
22 itself, we do have an officer or an emergency management liaison
23 that works during the rush periods that's in there to help us
24 manage events. So we're very intentional about that.

25 One of the reasons that we could organize so quickly

1 around the quarterly drills, which I had ordered as one of the
2 early action items for the Authority, was because the chief and I
3 had had conversations about that well before the L'Enfant
4 incident. The reason we had not yet pushed this forward is
5 because we knew we had the Silver Line drills and we knew we had
6 the Green Belt drills planned out, so these were things that we
7 had planned on doing anyway.

8 You know, the variability of threat that is within the
9 Washington, D.C. region concerns me, it concerns the chief, it
10 concerns, you know, the board and the GM at WMATA, in addition to
11 everybody here. We want to make sure that we're well prepared for
12 that. So that's -- we had these conversations continuously.
13 Again, we have very formalized approaches to this and we have very
14 informalized approaches, as well.

15 MR. FLANIGON: Thank you.

16 Following up on that, given the intense scrutiny that
17 WMATA's been under in recent years, what mechanisms are in place
18 to prevent or discourage the development of an -- I'll call it an
19 "us versus them" culture that might adversely affect
20 communication, coordination, and working with outside entities?

21 MR. TROUP: I think the most important there is
22 recognizing that the safety of our passengers is paramount. We
23 never forget that and I never let the organization forget that.
24 That becomes what is important. So if that message is put
25 forward, if that message is put forward from the board down, which

1 it is, we have the support from the board in regards to financial
2 resources, the time and space resources; we have the support from
3 the GM to be able to put these issues forward. So recognizing
4 that safety is paramount, is the critical aspect of that, so that
5 we don't allow people to get into the "us versus them" because it
6 detracts from what the mission is and, again, that mission is
7 providing safe and efficient service to our passengers. So that's
8 one of the ways that we do that and, additionally, it's through
9 our actions.

10 And I'd like to point out that we have developed a
11 number of safety initiatives since -- during the time that I've
12 been here. When I first got here, the RWP program, Roadway Worker
13 Protection program, modeled after the FRA environment, was almost
14 fully developed and we were just beginning to execute it when I
15 got here. That's a leading safety program. We've had a number of
16 transit agencies come and look at that. The Close Call Program is
17 very, very important for us. The Close Call Program is a leading
18 indicator. This is how we do these things, this is a leading
19 indicator. The Close Call Program allows us to know what we would
20 not normally have known. If I could go back to --

21 MR. FLANIGON: Interrupt for just a second.

22 MR. TROUP: I'm sorry.

23 MR. FLANIGON: I think we're going to get into some of
24 those programs --

25 MR. TROUP: Okay. Okay, very good.

1 MR. FLANIGON: -- in a bit.

2 MR. TROUP: Sure.

3 MR. FLANIGON: So I'll cut you off, if I could, there.

4 MR. TROUP: Sure.

5 MR. FLANIGON: At this point, I wanted to mention that
6 Mr. Giulietti is here from Metro-North Railroad and we appreciate
7 you appearing here today. And we asked you to be here to provide
8 the perspective of a leader of a passenger rail operation that
9 had, in the past, experienced some very significant accident with
10 organizational components, and to basically be able to ask you how
11 you manage and deal with some of the similar issues that we're
12 looking at here today. So my question for you is a follow-on to
13 the idea of silos and isolation. So how are you addressing
14 breaking down and preventing silos? And if you can provide any
15 examples, that would be helpful.

16 MR. GIULIETTI: See if it comes on. Okay.

17 From the standpoint that --

18 (Pause.)

19 MR. GIULIETTI: I spent a lot of time at the NTSB
20 talking about these issues, and one of the things that came
21 paramount when we were dealing with our situation is the fact that
22 so much focus had been put onto an on-time performance in what
23 I'll call the operations department, and it's historical within
24 the rail industry that all of our emphasis is on on-time
25 performance. It's the measure that basically was used even to

1 determine -- every president that walked in would try to turn
2 around and take it to the next level in terms of on-time
3 performance. But you've heard the words, you know, safety and
4 efficiency. So the first emphasis had to be that safety was the
5 most important thing that drove our business; the efficiency will
6 come along later on.

7 And to go and give you specific examples in terms of
8 breaking down barriers, one of the things that we had to look at
9 was how were we getting our message across. You know, the
10 quarterly stand-downs had to truly be stand-downs. People had to
11 know we were willing to sacrifice on-time performance to make sure
12 that the safety message was getting out there. And we have done
13 that and we continue to do that.

14 Beyond that, we turned around and took a look at how our
15 department structures were and we started looking at the fact
16 that, one, you don't combine -- in our example, we do not combine
17 our safety and security anymore. We treat them as separate
18 departments and we have fully staffed those departments based on
19 the need that we saw there.

20 We then had to take a look at what was going on in our
21 training department, because one of the things is whether or not
22 you are investing the same levels in terms of your training. Are
23 you doing it across the board with all of your departments and
24 have you made sure that the same standard you're applying to one
25 department, you're applying to other departments as well? So we

1 started looking at training and revamping the entire way that we
2 were doing training and reallocating resources to the training.
3 And the other end that we started to look at was from the
4 standpoint of even when we're holding standards and you're dealing
5 with your labor relations departments, to take it from the
6 department end and establish protocols and then work with your
7 labor relations department so that all the departments are coming
8 in there on an equal basis and receiving the same standard of
9 treatment.

10 Now, I think the second part of your question was within
11 the upper management core, as well, how does that change? One of
12 the changes that I went back to was to have the engineering
13 department be a direct report to the president, as well as the
14 operations department. And part of the reason I had to do that is
15 that as -- and I say I had to do that. When we talked about what
16 we needed to do, it was to go and ensure that when we sit down and
17 we talk, all right, we're going across the board on every single
18 situation, all right, and we're talking about it as a group.

19 And I know you're going to get into it later on, but it
20 also translates to how do we respond, as well, when we have
21 situations that are going on and the departments that are
22 necessary for it.

23 So I turn and say to you that from the standpoint that
24 the first silo that we had to break down was this overarching silo
25 that operations runs the railroad, okay, and therefore everything

1 is based on the operation. And truly, operations extends well
2 beyond the operating department to all departments and their input
3 into the daily performance of what makes a safe railroad go
4 forward.

5 MR. FLANIGON: Great, thank you.

6 And the next question is for Mr. Troup. The FTA's
7 safety management inspection found that current WMATA service
8 levels do not provide adequate time for some right-of-way
9 maintenance and that has then resulted in maintenance backlogs.
10 And this description is similar to some of the findings some years
11 ago on Metro-North where -- which Mr. Giulietti just spoke to --
12 on-time performance outweighed safety and there was significant
13 backlog of track maintenance. So my question is, for Mr. Troup,
14 what has WMATA done to ensure the organizational culture supports
15 and prioritizes adequate maintenance windows given that there's a
16 lot of public and political pressures for maintaining very high
17 service levels?

18 MR. TROUP: Thank you. And in regards to that, first, I
19 appreciate the FTA coming in and doing their safety management
20 inspection. It's paramount to come in and be able to look at an
21 organization from the outside. When you're on the inside of an
22 organization, it's helpful to have somebody come from the outside
23 and be able to look at the different processes and procedures that
24 you do.

25 In regards, specifically, to the track allocation times

1 for the production work that we have going on, when I first came
2 here in 2010, we were not doing any significant amount of single
3 trackings nor were we doing any significant amount of shutdowns
4 along the work. Recognizing the backlog of work that we had, the
5 major production work which we had to accomplish within that time
6 frame, I merely set forth in organizing single tracking events and
7 major shutdowns for projects that required those shutdowns to be
8 done. And again, with the support of the board and the GM.

9 One of the things is while there has been a decrease
10 within the organization for those specific track allocation times,
11 what I would like to say is that there's a number of reasons for
12 that. First of all, we are no longer doing the Red Line
13 Stage 1 project. That project has been completed, so we're no
14 longer doing that. The Neutral Host project was suspended, so we
15 no longer needed to be engaged in the Neutral Host project, for
16 that. The Dulles Silver Line project was completed, so we no
17 longer had to take shutdowns and allocation work for that. So
18 there are a number of items why we backed off on the number of
19 shutdowns that we did have to the number of shutdowns and single
20 tracking events that we do have.

21 What we recognized, too, is that the backlog of ties
22 that we had to do -- we needed to do about 30,000 or 40,000 ties a
23 year in order to catch up the backlog for the 22,000 ties that we
24 needed to do; we had caught up with those. So some of the work
25 that we had -- were utilizing that track elements for, that track

1 time for, we had caught up with on the backlog.

2 It's important to note that none of the backlog items
3 represents a safety defect. While there are defects within the
4 property and there may be defects on the rail, they don't rise to
5 the effect of having a safety nor even a speed restriction on
6 them. If they do, if there is a necessity, if our track geometry
7 vehicle finds a defect out there, they know that they have the
8 opportunity, regardless of what time it is, they find it at 5:00
9 in the morning, right before rush, they know that they can take
10 that single tracking and repair that defect. That's been done a
11 number of times on the property.

12 So the revenue service never takes precedent over a
13 safety issue that's out there. What we do is we do a very
14 thoughtful approach to being able to take care of the maintenance
15 and defer those maintenance items that we can. It's not always --
16 you know, it's -- when you look at things from a risk perspective,
17 it's not always bad to be able to defer some of these maintenance
18 items as long as, like I said, they're manageable from a speed
19 restriction standpoint, a mitigation standpoint, as long as they
20 don't represent a safety hazard to our passengers or employees.

21 And in addition, if I could, too, that the -- you know,
22 one of the things is that we're also looking for better means and
23 methods that we don't have to take out track. You know, I was the
24 systems manager for Amtrak for a number of years up in the New
25 York division. It's very analogous to what we do here. We were a

1 two-track railroad from Newark, New Jersey into Penn Station, New
2 York. We were running about 2½-minute headways in there and we
3 never took a shutdown. We never took a shutdown in order to do
4 maintenance work, install ties, and put in the whole, the entire
5 Secaucus transfer station project, which if you look at a
6 before/after you can see how significant that was.

7 So what I have additionally challenged people to do is
8 say, okay, let's figure out means and methods that we can do that
9 we don't have to take those shutdowns, that we don't have to be
10 able to disrupt passenger service, and still get the work done
11 that we need to in a manner that is efficient and takes care of
12 the work we do.

13 For example, traction power substations. We did an
14 analysis on traction power substations to make a determination
15 that, you know, we can take these off line for a period of time --
16 you know, we can take those off line for a period of time, we can
17 manage them through our tie-breaker stations so that we don't have
18 to be able to take out the track access for there. So that's
19 important, too, the fact that we're getting much better in our
20 processes to be able to do that work.

21 MR. FLANIGON: Great, thank you.

22 At this point I'm going to hand questioning off to my
23 colleague, Dr. Loren Groff.

24 DR. GROFF: Good morning. My questions will focus
25 mostly on the employee experience and particularly with regard to

1 safety reporting and communicating safety information. So most of
2 my questions will be directed to you, Mr. Madaras, and also,
3 perhaps, Mr. Giulietti.

4 Mr. Troup touched on, mentioned, safety committees and
5 the Close Call Reporting System. I'd like to talk a little bit
6 about both of those. But first, the safety committee structure.
7 Mr. Madaras, could you please explain the safety committee
8 structure at WMATA and how an employee would report a safety
9 concern through that structure?

10 MR. MADARAS: Yes. Good morning. Currently, there is
11 supposed to be local safety committee meetings at each division
12 and each work location that occur on a monthly basis. If an
13 employee has a concern, they're supposed to be able to talk to
14 their supervisor so that it gets communicated up through the local
15 safety committee meetings. But what we do with the union is we
16 suggest that if they have a concern that is unanswered or
17 continues, that we ask them to bring it forward to me or that they
18 use the newly established -- well, it's actually been in effect
19 almost 2 years now, the Close Call Reporting Program.

20 DR. GROFF: So if a concern was raised at a local
21 committee, my understanding is that it elevates to a division or a
22 departmental level and then up to the executive level. Is that
23 correct?

24 MR. MADARAS: That's supposed to be how it works, and
25 I'm not sure that that's always what happens because I continue to

1 get calls and concerns expressed by the employees about unanswered
2 concerns and then I generally communicate those myself.

3 DR. GROFF: So in your position, you also participate in
4 the executive committee, Executive Safety Committee; is that
5 correct?

6 MR. MADARAS: Yes, that's accurate.

7 DR. GROFF: And could you describe, maybe, some examples
8 of safety issues that get discussed in those executive committee
9 meetings? Or maybe if you have an example of one that did
10 progress through from a local all the way up to the executive
11 committee?

12 MR. MADARAS: Well, generally there are statistical risk
13 reports that occur at the Executive Safety Committee meetings.
14 Those talk about accidents that have occurred, workers'
15 compensation claims from employees, and those are charted and they
16 give, you know, accolades if you get the numbers down for your
17 different departments, from the managerial standpoint.

18 Can you repeat the question a little bit for me?

19 DR. GROFF: I was wondering if you had an example,
20 maybe, of a safety issue since you are getting them reported
21 locally and you're also part of the executive committee, if you
22 have an example of something that might have been reported locally
23 that made its way up to the executive committee level. If you
24 don't, that's fine.

25 MR. MADARAS: Yeah. I can give you examples of things

1 that I've raised at the Executive Safety Committee meetings.

2 Would you like to have a couple of those?

3 DR. GROFF: Yeah. Maybe an example of something
4 specific.

5 MR. MADARAS: Well, we have had an issue over at one of
6 the apartment complexes, this is on the bus side, where the bus
7 operators were actually turning into the complex and they were
8 coming head-on with the oncoming traffic. There wasn't enough
9 room for the bus to actually go through that apartment complex.
10 And there was a lot of back-and-forth and back-and-forth about how
11 to address it, and that went on for quite a while. But the
12 persistence of, I believe, the union and myself, we finally got
13 that action corrected. We got striping changed; we had routing
14 through the apartment complex changed.

15 DR. GROFF: Okay. Thank you for the example.

16 I'd like to move on to the Close Call Reporting System
17 that was mentioned and I think, if I'm correct, that came, in
18 part, out of the Fort Totten accident. But it's been in place for
19 a couple of years; is that correct?

20 MR. MADARAS: Yeah.

21 DR. GROFF: If you can describe that.

22 MR. MADARAS: That started July 1st, 2013.

23 DR. GROFF: And could you explain a little bit about
24 that, if an employee had a concern, when they might utilize that
25 program and how the reports get reviewed?

1 MR. MADARAS: Yes. It's confidential and it's supposed
2 to be non-mitigating, so that there is not a concern with the
3 employee that they'll be disciplined for reporting. The
4 confidentiality is maintained by the Department of Transportation
5 Bureau of Transportation Statistics. And what they do is they
6 make a report through the website or through an 800 number. That
7 report goes to the BTS folks and they have 24 hours to complete
8 the report from the time they initially made it. The BTS folks
9 will bring them in to do an interview. They will scrub the
10 information that would identify who they were; they will also
11 scrub the information that would identify the location of the
12 concern.

13 And from that point, the concern is brought to the Peer
14 Review Team. I'm a member of the Peer Review Team along with
15 another Local 689 member, two folks from WMATA's management, and
16 now we have the safety department participating along with the BTS
17 folks. And what happens is, is that the concern is discussed. We
18 use an analysis that determines the root cause and we make a
19 recommendation to the deputy general manager as to what we believe
20 would be a good corrective action or some types of changes that
21 should take place. And from that point, the deputy general
22 manager, who is Mr. Troup here, he sends back either adopting the
23 recommendation; the other thing he can do, which he's done several
24 times, is ask for additional information or he can deny the
25 recommendation, which we haven't had one denied yet.

1 DR. GROFF: Thank you. So just to make sure that I'm
2 clear, the peer review process that you described of those
3 reports, is that separate from the Executive Safety Committee and
4 does the results of that feed into the Executive Safety Committee
5 in any way?

6 MR. MADARAS: Yes and no. The recommendations that are
7 adopted from the Close Call Reporting Program are public
8 throughout WMATA, they're communicated via eNews, through the
9 union. We also talk about them with the membership at the
10 membership meetings. And those recommendations that are made, you
11 know, for the general public to see. I mean, everybody is well
12 aware as to what the corrective actions are.

13 Did I answer your question?

14 DR. GROFF: Yes. And when you say the peer review
15 meetings, does that also include, let's say, anyone from FTA or
16 the TOC? Are there any other outside involvement in any of those?
17 Do they get to see the results of any of those?

18 MR. MADARAS: Well, they see the adopted
19 recommendations. Those are made public for everyone to see. But
20 as far as any information that's discussed at the Peer Review Team
21 meetings, that's all confidential.

22 DR. GROFF: And just one last question, both either the
23 -- about the committees, that is, either the safety committee or
24 the Close Call Reporting System, you said the results of those get
25 made public and published.

1 MR. MADARAS: Right.

2 DR. GROFF: Is most of the communication in those
3 committees, is it mostly upward to management committees or is
4 there also communication between groups? For example, if there
5 was a safety concern that involved operations and maintenance and
6 train controllers, is there any opportunity for those groups to
7 get together and discuss those concerns?

8 MR. MADARAS: Yes, they do at the Executive Safety
9 Committee meeting. Any concerns which are interdepartmental, all
10 the departments are generally represented there, so if there was a
11 discussion that was related to a condition that was continuing, it
12 would be brought at the Executive Safety Committee.

13 DR. GROFF: Mr. Giulietti, if you could say -- I know
14 that Metro-North has been establishing a Close Call Reporting
15 System and you've also been looking at your safety committee
16 structure. In your experience, have you had any other additional
17 actions that you've taken or anything that you've learned through
18 that process?

19 MR. GIULIETTI: Let's start with the Close Call
20 Reporting System. One of the problems that -- because of it being
21 an industry that has been as regulated as it has been, there was a
22 general perception within our unions that they did not trust what
23 the system was going to be, so the first thing that we had to do
24 was get through this trust issue. I believe the answer to that
25 would've been that they weren't sure that they believed that the

1 system would be confidential. I think we've broken that barrier.
2 They're signing on right now. I am really looking forward to this
3 system. I believe it's the right way to go.

4 You have to understand, even within the railroad
5 culture, this is a change because what it does is it puts some
6 things into a place that -- you know, we've grown up with a system
7 that there were strict regulations for when there was a violation.
8 If somebody went by a signal, you knew what the discipline was
9 going to be for going by that signal. Now you're talking about a
10 system that turns around, and what the unions were looking for was
11 making sure that they would be able to report things in a way that
12 it wasn't going to come back. And I think that it's critical,
13 because the only way we're going to find out about the things that
14 we're missing is to go through something like this.

15 You brought up a couple of things in terms of the safety
16 committees. One of the problems that I'm going to -- deliberate
17 to the system that I'm with right now is that sometimes committees
18 fall into a coffee klatch as opposed to truly dealing with issues
19 that are going on. And we had issues where -- you've talked
20 before about whether or not they had the ability to go and do
21 maintenance and they were doing the maintenance, well, one of the
22 things that had to happen was we had to go to these quarterly
23 safety stand-downs that are already mentioned. I've actually
24 participated in a number of those. The thing that I found most
25 encouraging was when I asked people that were there at those

1 meetings, if you found something that you were not sure of and you
2 weren't sure of the situation you're in, who would you ask? And I
3 got a balance of answers that included somebody from the
4 operations department, but a lot of the people mentioned the
5 training department, which was the last formal training that they
6 got. They felt that they could call up and ask questions there or
7 questions in the rules department. So that led us to a situation
8 where we wanted to make sure that the training department, the
9 rules department were in fact areas of safe haven while we're
10 trying to get the C3RS implemented within the agencies as well.

11 The other part is that, you know, we had to make sure --
12 and I've talked about it from the standpoint that if you take
13 tracks and you take your people and you say to them we're going to
14 emphasize safety, and you show that you're willing to accept the
15 fact that some of the work that they would be told that they were
16 going to do is going to get deferred because we're going to talk
17 about the safety of our system right now. That changed a belief
18 system, on top of which we had to actually go in and change all of
19 our schedules so that we could allocate the time frames for the
20 work to get done, and they knew our critical work needed to get
21 done. We're in a different situation; there's a lot of work that
22 has to be done with the system. And I'm going to tell you that
23 there has been a change there and that we're seeing that part come
24 true; I would say that people do feel comfortable in bringing
25 those issues forward.

1 DR. GROFF: Thank you. And thanks for your candor in
2 that. I appreciate that.

3 Mr. Madaras, have you heard any feedback from employees
4 that they are concerned about reporting safety issues, that they
5 have any concern about retaliation or anything like that, or that
6 even with the safety -- Close Call Reporting System, that they
7 would have any problems with that it not actually be confidential?

8 MR. MADARAS: That's the biggest battle that we fight
9 every day, is the fact that people don't want to talk to each
10 other because they fear retribution. And we've tried to break
11 down that barrier with the Close Call Reporting Program by
12 encouraging the employees to use it, even if it's a condition that
13 exists where they just have not had any action and they feel that
14 nobody's listening to them.

15 There's been a history of people being cynical about
16 wanting to report because they say that, you know, nobody's
17 listening. And we've tried to communicate to them that the Close
18 Call Reporting Program is an avenue by which we are listening.
19 And we actually changed the slogan for the Close Call Reporting
20 Program to say that we are listening.

21 But to expound a little bit further, the folks that talk
22 to you about safety concerns, we're more interested in trying to
23 get them to report. We want to have a conversation with them
24 about anything that they believe is unsafe in their work
25 environment. And we want them to feel comfortable in

1 communicating that, communicating that by whatever means possible,
2 because we don't want to see any more accidents anywhere in this
3 system. It's a tough battle.

4 We had big problems, like Mr. Giulietti referenced, with
5 people not feeling that the Close Call Reporting Program was
6 confidential when it first started, and it's taken probably a good
7 18 months to finally get folks to ease up a little bit, because
8 they had this misconception that if they reported something that
9 somehow it would find its way back, disciplinary-wise, for them
10 and somebody would point a finger at them.

11 So we continue to address that and I think the results
12 of the calls that are coming in to the Close Call Reporting
13 Program are showing a good sign that we're making progress because
14 those calls have been on the increase. We obviously don't want to
15 have any calls come in to the Close Call Reporting Program because
16 you want to believe that all the issues have been addressed, but
17 both WMATA management and Local 689 are convinced that there's,
18 you know, a multitude of safety concerns that exist out there that
19 are unknown and we want to find out what they are so that they can
20 be corrected.

21 DR. GROFF: Thank you. And so it sounds like you are
22 getting calls now to the system so that -- without being too
23 speculative or analytical -- if that's a measure of effectiveness
24 of the system, they are getting reports now?

25 MR. MADARAS: Yes. And I think it's also advantageous

1 for the program to continue to advertise its successes, which are
2 the implemented corrective actions. What we've suggested now --
3 you know, the Close Call Reporting Program has taken a while to
4 get started and get developed and move it forward. But what we've
5 done at the union is we've suggested that there be more visible
6 indentifying information at all the divisions with the Close Call
7 Reporting Program. A lot of the information that's put out at
8 divisions is paper and sometimes, you know, the boards look like
9 they're collages of stuff and folks may notice it, you know,
10 different one day but then the next day they kind of forget about
11 it. We want the information for the Close Call Reporting Program
12 to stand out at each division so that when an employee comes to
13 work that they actually see that every day and it stands out in
14 their mind, because we want to remind them every day, if you know
15 something that's unsafe out there, we want to hear about it.

16 DR. GROFF: And the time, I think maybe just one more
17 question. Mr. Flanigon asked about silos or difficulties in
18 communication between groups. I think, perhaps, with the union
19 that might also include between employees and management. Have
20 you experienced issues with communication silos and maybe has
21 there been any change recently in any of that?

22 MR. MADARAS: Well, I'm going to be very frank with
23 this. I thought we were really moving forward and then WMATA
24 instituted a disciplinary matrix here, right at the beginning of
25 the year. And now -- you know, we were encouraging people to have

1 conversations with each other, talk about what's unsafe. And now
2 the disciplinary matrix has come into play where they commingle
3 offences and it, you know, ultimately can lead to people losing
4 their jobs. And it's not been beneficial to helping the employees
5 want to talk to each other and talk to managers. We're constantly
6 hearing that at the union. I just don't think that you can tell
7 me at one point that you want to have a conversation with me and
8 we're going to openly talk about things, and then in the same
9 breath you turn around and you institute this disciplinary matrix
10 which makes me apprehensive about wanting to talk to you about
11 anything because I'm fearful that you're going -- there's going to
12 be some type of retaliation for anything that I mention. So
13 that's the battle that we're fighting now.

14 DR. GROFF: Okay, thank you. Maybe -- perhaps we'll
15 have time to come back to that, but I'll --

16 DR. POLAND: Dr. Groff, I'm told that we have a copy of
17 WMATA's disciplinary matrix, but it's not an exhibit.

18 DR. GROFF: Okay.

19 DR. POLAND: So if it's okay with you, I'd like to add
20 it to our list of exhibits and we'll add it to the docket after
21 the hearing.

22 DR. GROFF: Yes, please.

23 DR. POLAND: Thank you.

24 DR. GROFF: And with that, I'll pass the questioning on
25 to my colleague, Mr. Narvell.

1 MR. NARVELL: Thank you, Dr. Groff.

2 I'd like to begin my questioning with Chief Pavlik.

3 Good morning, Chief.

4 MR. PAVLIK: Good morning.

5 MR. NARVELL: Chief, can you briefly describe your
6 relationship with the WMATA safety department?

7 MR. PAVLIK: Certainly. Myself and Mr. Dougherty work
8 hand in hand. You know, I think sometimes with our employees, as
9 well as our riders, the lines of safety and security often
10 overlap. So that relationship is very important, whether we're
11 talking about the safety and security of our riders or our
12 employees. And also, the relationship with Tri-State Oversight
13 Committee. All that plays a role. It's kind of a trifecta impact
14 on how the safety department with oversight from the TOC and the
15 police department work hand in hand.

16 MR. NARVELL: Okay. And how often would you say you
17 interact with them, how frequently?

18 MR. PAVLIK: At a minimum, with the Tri-State Oversight
19 Committee, we have monthly meetings; Mr. Dougherty and the safety
20 department, a daily event. You know, they each receive our
21 command pages when incidents happen, they respond to our critical
22 incidents and things of that nature. So it's a great partnership
23 that continues to grow.

24 MR. NARVELL: Okay. What safety data do you personally
25 review or examine?

1 MR. PAVLIK: The main things I look at as the chief of
2 police is obviously employee injuries, how officers are being
3 injured, what's causing those injuries. And then whenever there
4 is a critical incident, the role that the Office of Emergency
5 Management -- that falls under me -- as well as the Transit
6 Police, what role did we play when it comes to unified
7 command/incident command, what role we played; how the fire
8 department interacted with the police. Basically every incident
9 that we have, we conduct a hotwash, an After Action Review, to
10 review what we did right and what we did -- could improve on.

11 MR. NARVELL: Okay, thank you. Could you briefly
12 discuss your role and responsibilities with respect to the
13 Executive Safety Committee?

14 MR. PAVLIK: Certainly. At the Executive Safety
15 Committee meeting, we meet once a month with the general manager
16 and all his direct reports, and at that meeting we go over any
17 incidents over the past 30 days. We could look at bus accidents
18 to MetroAccess, our paratransit. We look at radio issues. We
19 look at trends that are developing. We look at patterns not only
20 in employee injuries, but also our rider injury rate. So we go
21 over all that. We talk about any audits that are up and coming.
22 But basically what we do at the organizational level, take a top-
23 down review, look at the organization. It'll include training.
24 It'll include anything that bubbles up from the local safety
25 committee meetings or the department or division safety meetings.

1 MR. NARVELL: Okay, thank you. How do you ensure that
2 your department communicates effectively, and this is internally
3 and externally, with other entities during an emergency?

4 MR. PAVLIK: It is challenging. You know, we have
5 almost 13,000 employees that are spread out throughout Maryland,
6 D.C., Virginia; you know, they work 24 hours a day, 7 days a week,
7 to include federal holidays, so communication is a challenge.
8 It's something we strive at each and every day, whether it's an
9 emergency incident or day to day. We have various means to do
10 that. We have the Office of -- we have an electronic bulletin
11 board for employees to look at. We have the Office of Inspector
12 General tip line. We have the safety tip line. We have monthly
13 meetings.

14 And then when it comes down to the incidents, as they're
15 ongoing, we form that unified command. And at that unified
16 command you have the Transit Police official there, you have a
17 rail supervisor there, you'll have a bus supervisor there, you'll
18 have someone from para, someone from safety; all of them come
19 together and help manage that critical incident.

20 MR. NARVELL: Okay, thank you.

21 This next question is for Mr. Giulietti. And it's
22 essentially the same thing, Mr. Giulietti. How does Metro-North
23 ensure effective communications during an emergency?

24 MR. GIULIETTI: First off, and I'll respond from the way
25 that they've gone and put it out there right now in terms of the

1 interaction with the support that we get from the police
2 department. Our police, we have representatives, even to my
3 weekly staff meeting, where there is a tremendous relationship
4 that has built up both not only at Metro-North but throughout the
5 MTA. And it's also reinforced by the fact that the chairman has
6 all five presidents and the police department on a regular, if not
7 weekly, biweekly, meeting that we're turning around and discussing
8 issues that are going on. It's been unfortunate that we've had so
9 much to have to deal with, but it's put it into a perspective that
10 we're constantly dealing with it and constantly looking to go and
11 make the changes that will support that.

12 Could you repeat the question again for me?

13 MR. NARVELL: Essentially, how does Metro-North ensure
14 effective communications during an emergency?

15 MR. GIULIETTI: Going into an emergency, in emergency
16 situations, I would say that, again, it depends on the nature of
17 the emergency. There's some that you would call, classify into
18 the snow emergencies, the weather emergencies. We actually have a
19 command center that is staffed not only by our communications
20 departments, every one of the departments is represented at it.
21 And what we did, we also have it overlooking the dispatch center
22 but not being part of the dispatch center so it doesn't interfere
23 with the operation that's going on there. Everybody sits in
24 there. There's direct communication. We're making sure that
25 we've touched all bases, so that we're there as we're

1 communicating with the public as well. We have somebody that's
2 sitting there, we're now entering into Twitter accounts, we're
3 entering into social media, to try and get our messages out.
4 Because one of the frustrations also is, is that as you try to
5 deal with some of the messages, people are getting them faster on
6 the trains than you're able to sometimes put them out when you're
7 trying to, I'll say, temper the situation or deal with the
8 situation that's at hand.

9 So we have an active situation, we have a code system
10 that we go through depending on the type of emergency. And,
11 again, if the emergency involves something that's more severe,
12 then you're talking about setting up the remote command centers,
13 where you show up at those remote command centers and we work hand
14 in hand with the police department and there is a safety protocol
15 that's set up and a protocol for the response that's set up.
16 We've even got it down that I would turn around and say the
17 relationship with our police department is so strong that the
18 first people that I even call, because they can get me to the
19 scene better, is the police department.

20 And our employees have reached a relationship with the
21 police department that there's an ever-presence in all of our
22 terminals, on our trains, and throughout the system, that the
23 employees have learned to, I would say, break that barrier where
24 there's trust within the police department and there's tremendous
25 support within the police department. So I don't know if I've

1 answered it from that standpoint, but if you want to go further --

2 MR. NARVELL: No, that's fine. It's very informative.

3 Thank you for your response.

4 Chief, back to you. Mr. Troup was asked about
5 insularity and the silo effect, if you will, and that sometimes it
6 occurs within organizational units. How are you addressing and
7 breaking down and preventing these silos between your department,
8 ROCC, the field operations, and emergency management operations?

9 MR. PAVLIK: Yeah. I can say, you know, I've been with
10 the organization over 20 years and I've seen that culture change.
11 And prior to, I'd say almost 2007-2008 when DuPont came in, they
12 kind of really made us see that as an organization. I attribute
13 them to some of the changes that we've made today.

14 The relationship I have or the police department has
15 across the organization is strong. You know, we often attend
16 local safety meetings throughout the department. When and if
17 there is an incident, the general manager or Mr. Troup institutes
18 a command line where all of us are on the same line talking about
19 the incident. But that relationship is ever growing and ever
20 building; it's something that we're actually very proud of. So at
21 any given time they know how to contact me and I know how to
22 contact them, and that's getting drilled down to the, you know,
23 the first-line supervisors, where we have mid-level managers and
24 first-line supervisors going to the bus safety committee meetings,
25 the rail safety committee meeting. So that way, if and when we

1 have a time to interact, it's not the day of the event.

2 MR. NARVELL: All right, thank you.

3 The NTSB made recommendations for improved on-site
4 coordination with fire services, OCC, and the police in both a
5 1986 Smithsonian interlocking derailment and the 1996 Shady Grove
6 train collision. At the time, Member Higgins noted problems with
7 timely evacuation in a 2007 Mt. Vernon Square derailment. In the
8 January 12, 2015 smoke incident, similar challenges were
9 encountered. Should a similar incident occur today, what changes
10 has WMATA made to make sure there is good communication internally
11 and in coordination with responders?

12 MR. PAVLIK: The evacuation of a station is something
13 very critical and has to be done orderly. If and when that time
14 comes, it's that relationship, again, with the police department,
15 the fire department, working with one common goal, and that's life
16 safety. So when those incidents occur, we do it through a variety
17 of means, whether it's the station announcements going on, whether
18 it's boots-on-the-ground police officers and firefighters working
19 in tandem, whether it's through social media, but the first and
20 foremost is that life safety.

21 So I think when you look back at the history of WMATA
22 and all the drills and exercise that we've done from 2000 to 2015,
23 the various training exercises that was talked about yesterday and
24 the training that we've done, from joint supervisors training to
25 managing Metro emergencies to every month the Transit Police have

1 first-line supervisors training. So it's something that -- you
2 know, complacency is our enemy, so it's something that we try to
3 do each and every day.

4 MR. NARVELL: Okay, thank you.

5 Mr. Troup, I'll address the same question to you and
6 I'll be happy to repeat it if need be.

7 MR. TROUP: From our perspective, again, I think it
8 begins with the training. You know, at our CTF facility we have a
9 state of the art smoke tunnel, we have a state of the art rollover
10 train that we utilize. Having the first responders out there
11 recognizing what the level of threat is, what it looks like, what
12 it looks like to our passengers is obviously very, very critical
13 to us, and we appreciate the jurisdictions' response in being able
14 to get out there and take care of the training on that.

15 Obviously, the first and foremost of what we try to do
16 is to move the train out of the area. That's our first process,
17 to be able to get that out. And should that not prove successful,
18 then we have the means and methods and procedures to be able to
19 get in there to be able to take the third rail down through the
20 ETS boxes or through the Rail Operations Control Center.

21 So from my perspective, again, training is paramount in
22 that, being able to get the people out to our smoke tunnels,
23 understand what the issues are there, and then establishing, you
24 know, those unified commands so that we can understand what
25 essentially is going on outside and be able to have that

1 communication between the ROCC and our Transit Police and our Fire
2 EMS on those situations.

3 MR. NARVELL: All right, thank you.

4 And I'll finish up my time here with Chief Pavlik.

5 Chief, as a result of the January 12th incident, what
6 gaps or shortcomings have you identified within the Transit Police
7 and what actions have you taken or are planning to take to address
8 them?

9 MR. PAVLIK: Just as Mr. Troup -- it's the training
10 piece and I'll give you a good example of that. Prior to
11 Mr. Troup's leadership here, our DGMO was very reluctant to give
12 us main line whenever we did a drill, and the big difference is
13 oftentimes when we did a drill and exercise, we'd be forced to a
14 rail yard and, you know, the police department, the fire
15 department, would be like, you know, we appreciate the use of a
16 rail yard, but you can only simulate so much in a rail yard.

17 So this past April -- we had been planning this drill
18 for almost 6 months -- Mr. Troup let us use the main line and we
19 actually did have the Green Belt Station, Prince George's County,
20 Maryland. And that just gives us, as the police department and
21 the firefighters responding, the ability to do it real time
22 almost. And what's critical to that is also it shows to our
23 riders what we're doing and how we're drilling and how we're
24 exercising and how we're working a partnership.

25 In that particular drill we had the CERT teams there, we

1 had the American Red Cross there, we had numerous volunteers, we
2 had people from the disability community there. So it's really
3 creating those opportunities to conduct that training. Training
4 is the lifeblood of what we want. You know, between our federal
5 partners, we get a lot of grant money to buy, you know, equipment
6 and conduct various training, but unless you have the opportunity
7 to execute and use that equipment and do that training, it's
8 almost a moot point. So having the ability to do a drill on a
9 main line in a real environment is what we strive for each and
10 every day.

11 MR. NARVELL: Okay, thank you. Do your police officers,
12 Transit Police officers, have access to and use the Confidential
13 Close Call Reporting System?

14 MR. PAVLIK: We do. The close call reporting is
15 basically open to anybody in operations.

16 MR. NARVELL: What actionable items or information do
17 you see as a result of that participation?

18 MR. PAVLIK: I think with the close call reporting the
19 biggest takeaway, and Mr. Madaras hit on this, is maintaining that
20 trust and that confidence level. So having another means, you
21 know, for an employee to report such an incident or close call,
22 whether it's, again, through the safety tip line, the OIG tip
23 line, or the Close Call Reporting, and then what we, as
24 management, what do we do with that information once we're made
25 aware of it.

1 MR. NARVELL: Okay. And Chief, one final question is
2 this: What have you seen that works within WMATA as far as safety
3 is concerned and what has not?

4 MR. PAVLIK: I think the biggest thing that we can --
5 and our numbers show this, you know. Our employee injury rates
6 are down. Our latest employee opinion survey shows we're making
7 progress, numbers at a very high level, you know, upper 80
8 percentile. And it starts with those conversations, you know,
9 Mr. Madaras tipped on a little bit. But having that conversation,
10 creating that sense of confidence among management and represented
11 employees. And that starts at the local safety committee
12 meetings, boots on the ground, and having that daily interaction,
13 you know, don't wait for an incident to become -- or an event to
14 become an incident, creating that sense of trust and confidence
15 among management and the local represented employees.

16 MR. NARVELL: Great. Thank you, gentlemen.

17 Mr. Flanigon, this concludes my question. I'll turn it
18 back to you.

19 MR. FLANIGON: I have time for one more question and
20 I'll direct this to Mr. Troup. We've been talking about the Close
21 Call Reporting System. What performance indicators or measures do
22 you use to gauge the success of that program? And then a specific
23 add-on to that, in the peer review process, if you're aware, does
24 the FTA or the TOC get to participate in that process or just see
25 the outcome?

1 MR. TROUP: Thank you. The metric that we use to -- for
2 the Close Call Reporting Program is obviously -- you know, it's
3 important to understand what we're learning is what we don't know.
4 So recognizing that, the amount of calls that we get is critical
5 to us. Right now we're in the infancy of the program. We're
6 gauging, you know, we're making determinations what that success
7 would look like, trying to use other properties, which have done
8 it. We haven't demonstrated a -- we haven't figured out a
9 specific metric to understand what the success of that program
10 looks like, like I said, because we're just in the infancy of it
11 now.

12 But what I will say is what I'm very pleased about, is
13 that we are getting an increase in the number of close calls that
14 we're getting and the PRT, the Peer Review Team, is bringing to
15 me. I will say that I'm a little bit of a different opinion than
16 Mr. Madaras, is that the reality is I like to have the close call
17 issues, because what that means is I'm able to establish what
18 those leading indicators are. Leading indicators are those safety
19 items which have not risen to the event of an issue for an injury
20 or an accident. So recognizing those, that they're out there,
21 recognizing the stuff that we don't know, we want to be able to
22 address it, again, before it becomes an incident.

23 So as a safety organization matures, you know, you go
24 from being basically obstructive to safety to being reactive to
25 safety to being analytical for lagging indicators, which we are

1 very, very good at; being able to look at incidences and being
2 able to be very analytical towards those and recognizing what we
3 need to do to prevent those. And now what we're maturing into
4 is --

5 (Pause.)

6 UNIDENTIFIED SPEAKER: That's his third one he broke,
7 so --

8 (Laughter.)

9 DR. POLAND: Mr. Troup, it's line of sight, so if you
10 just pull it a little bit closer. I think your name plate may be
11 blocking it --

12 MR. TROUP: Okay.

13 DR. POLAND: -- which is giving a little bit of
14 problems.

15 MR. TROUP: I can do that.

16 DR. POLAND: Thank you.

17 MR. TROUP: Okay. So anyway, being able to look at
18 those leading indicators is very, very critical for us and we are
19 maturing into that with the close call program and some of the
20 programs that we have developed on that.

21 In regards to the FTA and the TOC participating in the
22 Peer Review Teams, they do not at this point. Again, this is
23 intended to be a very confidential program and we want to be able
24 to establish that. You know, I will say I think that, you know,
25 it's important for the employees to feel that way, that there's

1 not a regulatory agency looking over them on these specific
2 incidences on these. So that confidentiality is very, very
3 important to us on this. We want the employees to recognize that
4 this is a non-punitive program, that they can report these
5 anonymously, and they are actionable items on that.

6 MR. FLANIGON: Great, thank you.

7 And that concludes the Technical Panel questioning,
8 Dr. Poland, so I'll turn it back to you.

9 DR. POLAND: Thank you, Mr. Flanigon.

10 Chairman Hart, that concludes the Technical Panel's
11 questions for Panel 3 for the morning.

12 CHAIRMAN HART: Thank you, Dr. Poland.

13 We will now take a break until 10:30 to have the
14 questioning begin by the parties. And by the way, people are
15 asking me what clock am I using because my iPhone says one thing
16 and our computer says something else and our landline says
17 something else and none of them agree with that one. But I'm
18 using that one because that's the one everybody can see. So let's
19 come back at 10:30 by that clock and I would ask the witnesses to
20 come back a few minutes earlier to be seated. Thank you.

21 (Off the record at 10:05 a.m.)

22 (On the record at 10:32 a.m.)

23 CHAIRMAN HART: Welcome back, everybody. We are now in
24 session again. Now we're going to have questioning by the
25 parties. The parties will each have 5 minutes to ask the witness

1 questions and at that time, if we have need for a second round,
2 we'll see if we can do that. The last questioner will be WMATA,
3 so I'm going to go around the tables counterclockwise starting
4 with the Federal Transit Administration.

5 So please, Mr. Littleton, if you have any questions,
6 this --

7 DR. POLAND: Chairman Hart?

8 CHAIRMAN HART: Yes.

9 DR. POLAND: I'm sorry to interrupt you.

10 CHAIRMAN HART: No, please.

11 DR. POLAND: There was a credit card that was found in
12 the -- I believe it was found in the lobby, but the name on it is
13 Brittney Greason (ph.), and it is located up with the security
14 desk. So if Brittney would like her credit card, that's where she
15 can find it.

16 Thank you. Sorry to interrupt.

17 CHAIRMAN HART: Not a problem. Thanks for the message.
18 Mr. Littleton.

19 MR. LITTLETON: Thank you, Mr. Chairman.

20 We only have one question and that would be for
21 Mr. Troup. In reference to the Close Call Reporting System, do
22 your employees receive training on how to use that and, if so, do
23 they also receive recurrency training?

24 MR. TROUP: Yes, they receive training. They had
25 received initial training on how to use the Close Call Program.

1 You know, we appreciate Local 689's involvement in ensuring that
2 the training enabled out to the employees to indicate how they can
3 do that. So they did receive initial training on that. We
4 continually provide information back to them in regards to how
5 they can do it. It's on the website, how to go about the Close
6 Call Reporting.

7 It's an actually relatively simple program for them to
8 initiate that. So there was initial training on that. We also
9 have peer leaders in the different organizations who go ahead and
10 talk about it. So there was initial training that was done
11 through a joint labor/management agreement to be able to do that.

12 There's no recurrent training that goes on there, but
13 there is a lot of recurrent emphasis on the program, where they
14 can get information where they can get it, who they need to talk
15 to, to be able to understand that.

16 MR. LITTLETON: Great. As a follow-on, is that also a
17 part of your new hire on-boarding process to make sure that
18 they're trained on that program?

19 MR. TROUP: I'll have to get back to you on that.

20 MR. LITTLETON: All right. Thank you very much. No
21 other questions from the FTA.

22 CHAIRMAN HART: Thank you, Mr. Littleton.

23 Tri-State Oversight Committee, Ms. Baryshev.

24 MS. BARYSHEV: Thank you, Chairman Hart. TOC doesn't
25 have questions at this time.

1 CHAIRMAN HART: Thank you.

2 District of Columbia EMS, Ms. Chapple. Oh.

3 MR. GELDART: I'm back.

4 CHAIRMAN HART: Okay. Hello, Mr. Geldart. Do you have
5 any questions?

6 MR. GELDART: Yes, sir. I do. And I'm not quite sure
7 who on the panel it should go to. I think I'll direct it
8 initially at Chief Pavlik and then whoever may have the right
9 answer.

10 The first question is, in the docket for these
11 proceedings there are about 400 hours of video that shows all
12 sorts of different angles and places within the stations and top
13 of the stations and the tunnels of the event that happened. I
14 know that during planned -- preplanned events and special events,
15 that video is shared with the first responders in the region.
16 Would it be possible that that video is shared so that as our
17 first responders are coming into a scene like this, they at least
18 have that upfront knowledge of what, at least, is being captured
19 on those cameras?

20 MR. PAVLIK: Certainly. Just by way of background, back
21 in 2011, through the Council of Governments, we were awarded grant
22 funds through the UASI process and part of that included
23 entrance/exit cameras for every one of our stations. Fast forward
24 to last year, we went before our board of directors asking for the
25 permission and the authority, I guess, to share that camera with

1 the local jurisdictions. As you stated, we have done it for
2 preplanned events and we've been doing that through MCAC. WMATA
3 did not have the ability to share that video, so now we're working
4 with the Maryland Coordination and Analysis Center to share that
5 video real time. And it's something we're always looking to do
6 instead of just for preplanned events but ongoing events. So it's
7 in progress.

8 MR. GELDART: So that includes all the camera feeds for
9 an incident like this? Because the feeds from the tops of the
10 stations would not have helped very much. It would've been a
11 help, but -- from the tops of the stations and then, you know, the
12 track area ones and those in the stations, I think, are the ones
13 that really would help the first responders of the region.

14 MR. PAVLIK: Right. It's something we have to work on.
15 So basically what we did, we classified each of our camera
16 systems, like Level 1 cameras for entrance/exits, Level 2 would be
17 your mezzanines, Level 3 would be your platform, and Level 4 would
18 be very highly sensitive areas. So it's something we're striving
19 to do and, again, we're using the MCAC through Maryland to try to
20 get that vehicle to make that happen.

21 MR. GELDART: Thank you, sir. And then a second
22 question would be around the information sharing during an event.
23 Understand that unified command is always the best place once
24 you're on the ground, are established, and have everybody in
25 unified command. But Chief, as you and I know, in incidents that

1 always doesn't happen right away. Are there other ways that WMATA
2 and the regional first responders included in that could do a
3 better job at sharing information that's coming from individual
4 response personnel within the WMATA system back with the
5 jurisdiction being affected?

6 MR. PAVLIK: Yes. One thing that we've determined since
7 post-January 12th when meeting with the Council of Governments and
8 the Fire Chiefs Committee is we are working on creating a
9 Fire/ROCC liaison position. So starting on July 1st, Metro has
10 agreed to begin the funding for the first initial phase of that,
11 and what that will do, that will provide a level or section chief
12 level individual from the fire department with that expertise to
13 sit in our Rail Operation Control Center during that peak a.m. and
14 evening rush. So that way they're nested, joined at the hip, with
15 the Office of Emergency Management and the police department, so
16 if and when there's a critical incident during that time frame,
17 that fire liaison position will have firsthand information.

18 MR. GELDART: And so that covers us pretty well on a
19 fire response that's happening. On a police response that may be
20 happening, is there a way that we can look at better communication
21 between the 911 centers or the dispatch places between both WMATA,
22 MTPD, and, say, the District or other jurisdictions?

23 MR. PAVLIK: Right. We're a little challenged there
24 because, as you know, WMATA traverses Maryland, D.C., and
25 Virginia. So if a user calls 911 while in our system, it's going

1 to go to that local 911 center. WMATA doesn't have that luxury.
2 So it goes back to that partnership and those relationships that
3 we talked about previously. We're looking at ways, going forward,
4 where Metro Transit Police can share their CAD or their
5 computerated dispatch with the local law enforcement departments.
6 So that's, again, another avenue we're trying to use technology to
7 the region's advantage.

8 MR. GELDART: Thank you. That's all my questions, sir.

9 CHAIRMAN HART: Thank you, Mr. Geldart.

10 ATU 689, Ms. McCann.

11 MS. FLEMMINGS-McCANN: Good morning. Thank you.

12 I want to direct my question, please, to Mr. Madaras.

13 Mr. Madaras, for a classification close call, could you
14 please tell me who can report a close call as of now? I know we
15 are trying to get bus included, but right now, who can report a
16 Close Call?

17 MR. MADARAS: Right now the employees that are allowed
18 to use the Close Call Reporting Program are the folks that are in
19 the TIES group, the IT department, and we just recently added the
20 revenue facility technicians and also the frontline supervisors.

21 MS. FLEMMINGS-McCANN: Okay, thank you.

22 My next question is to Mr. Troup. First of all, I want
23 to thank you for also implementing the Close Call with -- and DOT.
24 We appreciate that.

25 My next question is, can you tell me, is there anything

1 in the future that will include the frontline employees of rail to
2 be included on any emergency procedures on-hands? I realize we
3 have books, but on-hands, where they can actually go out there and
4 implement or be involved when they are out there doing those type
5 of emergency situations that could help improve, in case we ever
6 have something like this again, they would be more knowledgeable
7 on what to do.

8 MR. TROUP: Yes. Thank you very much for the question.
9 And we're in the infancy stages right now of developing a program
10 for every employee for emergency -- for basically emergency
11 response, the different levels that they can do. We are
12 progressing that program to understand the level and the necessity
13 and the different employees that will be engaged in that and to
14 what level they will be engaged. So we are in the infancy of
15 looking at that and we will be presenting something.

16 MS. FLEMMINGS-McCANN: Do I have time for one more
17 question?

18 CHAIRMAN HART: Yes, you have 5 minutes total and you
19 have about half of that left.

20 MS. FLEMMINGS-McCANN: Oh, okay. My last question.
21 Because WMATA is a safety cultural environment and we believe in
22 providing safety for our customers, which is our number one
23 priority, can you tell me what is being done to implement more
24 safety for your frontline employees who are out there also working
25 every day and need to know that they are being protected on their

1 job?

2 MR. TROUP: I think it's important to understand, from
3 my perspective, you know, when I started with Amtrak, I started as
4 a track laborer and worked as an ATC technician, so I actually --
5 you know, I recognize what the challenges are that are out in the
6 environment that you're working in, you know, working at night,
7 the different challenges that are out there, you know, with the
8 trains. So first and foremost, I recognize what that is.

9 And what I realize is, is that the -- what is critical
10 is to get the proper tools, the proper equipment, the proper
11 training, and the proper procedures to the people to be able to do
12 that. We want to make sure that they have the proper tools, that
13 they're working with safe tools. We have gone through an
14 extensive amount of capital to be able to get new prime movers,
15 new tampers, different equipment like that. We've given ATC much
16 better equipment and diagnostic equipment to be able to do a job.
17 We're creating a more robust training program for that.

18 So that's what we're looking at first, is to be able to
19 do that, and expanding those programs out as we move forward,
20 recognizing that that's what we need.

21 MS. FLEMMINGS-McCANN: Thank you for that. Just to be
22 more clear, I guess I'm more concerned with the station managers
23 that are out there frontline, employees is who I'm really
24 referring to, and also to the rail operators, what is being done
25 to ensure more safety for them?

1 MR. TROUP: For the operations personnel? You know, one
2 of the things that we're looking at is programs that we can deal
3 with fare evasion, so that we don't have our station managers
4 interacting directly with customers on those ends, you know, that
5 we can make sure that those interactions, you know, don't escalate
6 to those. I know that the chief is working very carefully on, you
7 know, getting police out into the rail system and also into the
8 bus system, as well, you know, which is very critical.

9 So we've heard our employees on that and we are
10 developing programs to be able to address that; specifically, to
11 understand, first of all, what the threat is to them out there and
12 how we can mitigate that threat. And also to be able to recognize
13 what training we have to be able to give the employee. You know,
14 it's a difficult job. It's a very, very difficult job when a
15 customer is engaging you in a very hostile manner, to be able to
16 step back from that. And what we want to be able to do is to give
17 the employees the tools -- like I said, this includes the tools.
18 It's not just giving the track people the right hammer, it's not
19 just giving the ATC person the right hammer, but it's giving that
20 station manager and the bus operator the right psychological tools
21 that they can utilize to be able to step back from the situation
22 and say, okay, I need to bring this down. How do I need -- I need
23 to walk away from the situation; how do I diffuse the situation so
24 that it doesn't escalate? And that's very critical to us and
25 we're looking at the means and methods to do that.

1 CHAIRMAN HART: Thank you, Ms. McCann.

2 International Association of Fire Fighters Local 36,
3 Mr. Hudson. Do you have any questions?

4 MR. HUDSON: No, sir. Thank you, Mr. Chairman.

5 CHAIRMAN HART: Okay, thank you.

6 Mr. Dougherty, WMATA.

7 MR. DOUGHERTY: Thank you, Chairman.

8 I have a few questions, first directed at Mr. Troup.

9 Would you please explain the changes with the
10 implementation of the Confidential Close Call Reporting Program
11 and how it is worked? We talked a lot about the program but, you
12 know, with the changes that we've seen.

13 MR. TROUP: If I could, I want to step back for a minute
14 from the question. I just want to give a reference. I talked
15 about, you know, I was a track laborer and if I can give a
16 reference point to -- you know, I used to run a tie handler, which
17 was a small crane. That tie handler would derail; quite often a
18 tie handler would derail. We never reported, as workers out in
19 the field, we never reported it. Obviously, there were issues,
20 you know, out there; we never reported it. However, what we found
21 out later is that the tie handler was not only derailing in the
22 Wellington Subdivision, the New York Subdivision, the New Haven
23 Subdivision and the Baltimore Subdivision. These tie handlers
24 were derailing all over.

25 Had the Close Call program been implemented in 1978,

1 which I'm showing my age, but had it been implemented in 1978,
2 then this would not have happened because we would have recognized
3 what the issue was and we would've been able to fix it. It was a
4 very simple fix, being able to counterweight the tie handler
5 properly. So I recognize that these issues occur out there and
6 that's why the Close Call program is very, very important to me to
7 implement so that we don't have issues like that, are being moved
8 forward.

9 Specifically for WMATA, one of the issues that we found,
10 you know, a very simple one is that there was issues with the rail
11 car entering the garages. So what we did is we said, okay, how do
12 we need to do this better? The Peer Review Team looked at this.
13 They recognized that this is an issue, presents a safety hazard
14 for them to be able to enter the rail shops, so they said let's
15 put up signage and let's have a flagman to be able to, you know,
16 flag these cars in so that we can warn people as the car comes in
17 to be able to prevent the accident.

18 So that's a very simple one, but again, this is the
19 context of the programs that we work in and that's why this is,
20 you know, very, very important to me and to WMATA as a whole, to
21 be able to get this as the leading indicators that we can take
22 care of something.

23 MR. DOUGHERTY: Thank you, sir.

24 Chief Pavlik, would you please talk about -- talk a
25 little bit more about how employee injuries have trended and give

1 an example of employee engagement in the "See Something, Say
2 Something" program?

3 MR. PAVLIK: Sure. Before I answer that, I'd like to
4 correct something earlier. Mr. Narvell asked me about close call
5 reporting and Transit Police. If I have led the impression that
6 Transit Police use close call reporting, we don't, but there's
7 some times where something might come through Close Call that is a
8 security nexus that I do get involved with.

9 As far as the employee injury rates, if you look at our
10 5-year trend, they're definitely trending in the right direction.
11 They're trending downward. There's definitely some times
12 throughout the year, usually due to adverse weather conditions
13 where that number may go up or go down, but they're continuing to
14 trend in a positive direction, which is downward.

15 When I think of some examples of that, employee
16 engagement, I look at several examples. One being, you know, last
17 year, you know, Metro Transit Police, we had a 27% reduction of
18 Part I Crimes. As a chief, I'd love to take credit for that, but
19 that wouldn't have happened without all of our employees. You
20 know, each and every day we empower our employees to report safety
21 issues as well as security issues.

22 When you look at what we're doing with our bus drivers,
23 we recognize fare evasion is one of the leading causes of assault
24 against our bus drivers, which is a safety issue. So we look at
25 that and we launched a pilot program on how we can better protect

1 our bus operators, whether it's through technology, where we're
2 adding a monitor now to our buses; when you board a bus you'll see
3 yourself and, hopefully, that will reduce some of those assaults.
4 We're looking at bus shields, different types of technology to
5 protect our operators.

6 Another example where you see employee engagement,
7 probably about a month and a half ago we had a track worker on the
8 Silver Line and he saw a package that was blinking, had lights and
9 wires. To make a long story short, he called it in and we shut
10 that portion of the line down to investigate it. It took us about
11 45 minutes. We had our bomb technician arrive on the scene, x-ray
12 it, and it turned out to be a piece of a weather balloon that had
13 literally fallen out of the sky. But based on that employee, what
14 he observed, he reported it, which we love to hear. We instituted
15 our conference call, we set up our command, and we shut that
16 system down based on that threat.

17 So it's something that we see each and every day and
18 that we take very serious and, again, it's with those lines of
19 safety and security often employed together.

20 MR. DOUGHERTY: Thank you, sir.

21 And another question for Mr. Troup. Would you please
22 talk about the level of investment in safety at WMATA?

23 MR. TROUP: The level of safety, of investment, is
24 significant, not just in terms of the financial resource, but the
25 investment of time and the investment of time and space on the

1 right-of-way. We have -- for our capital program, we have
2 approximately \$400 million dedicated to safety programs,
3 specifically, on that. Again, this is in the capital program.
4 Every safety initiative is prioritized to be able to get done.

5 In addition to, you know, some of the things, like I
6 said with the Close Call, that's an investment to BTS, to be able
7 for them to be able to collect those statistics on that. The
8 fatigue management, which we have implemented, is an investment in
9 personnel. We have invested in being able to increase our extra
10 boards appropriately, be able to increase our wayside workers
11 appropriately to be able to manage against the fatigue program.
12 So that's critical to us for those investments.

13 So again, we speak about investment; it's not just
14 financial resources but, again, the time and space. You know, we
15 have allocated the time and space that is necessary to be able to
16 do the work. It's important to recognize that state of good
17 repair is an essential part of safety. If your railroad or your
18 equipment and systems are not in a state of good repair, they can
19 present an unsafe condition or conditions that you have to
20 mitigate. So, you know, our ability to go out there, support from
21 the board, from the GM, and more importantly, from our passengers,
22 to be able to recognize that we need to do this work is essential
23 to us, so we have a significant amount of investment.

24 MR. DOUGHERTY: Thank you, sir. And hopefully, we'll
25 have time for round two.

1 CHAIRMAN HART: Thank you, Mr. Dougherty.

2 Any parties have any second round of questions? FTA,
3 Mr. Littleton?

4 MR. LITTLETON: No questions, sir.

5 CHAIRMAN HART: Thank you.

6 Tri-State Oversight Commission?

7 MS. BARYSHEV: No.

8 CHAIRMAN HART: Thank you.

9 D.C. EMS?

10 (Off microphone response.)

11 CHAIRMAN HART: Okay. ATU 689?

12 MS. FLEMMINGS-McCANN: One last question, Mr. Troup.

13 What is being done to establish better communication between ROCC,
14 Transit, and rail employees to make sure that from now on there's
15 no miscommunication or confusion? Is there any plans that you're
16 working on to make sure that there are procedures in place to
17 establish communication?

18 MR. TROUP: So, you know, we feel that we have the
19 procedures in place and what we're defining better is to be able
20 -- again, the training element to that, being able to look at our
21 ROCC training to be able to understand, you know, if issues aren't
22 being communicated, why they're not being communicated.
23 Utilization of things like checklists to be able to go through and
24 be able to provide checklists on that, I think, is very important.
25 The communications environment between the ROCC and the Transit

1 Police, again, we have liaisons within OEM and we're bringing in a
2 liaison for the Fire EMS on that. And establishing, again, those
3 -- the emergency training establishment will be important for us
4 to recognize from the front level -- from the frontline employees,
5 excuse me, the employees that are out in the field, what level of
6 communications they might need.

7 So it's an evolving process, as safety always is. You
8 know, an organization that's mature recognizes they never stop
9 with safety, but it's a continuous process of improvement. You
10 know, we continue to look at those means and methods, which is one
11 of the reasons why, you know, we asked Mr. Madaras to come in to
12 the Executive Safety Committee to bring in those concerns that we
13 have.

14 CHAIRMAN HART: Thank you.

15 IAFF?

16 MR. HUDSON: No, sir.

17 CHAIRMAN HART: Thank you.

18 WMATA, Mr. Dougherty?

19 MR. DOUGHERTY: Thank you, Chairman Hart.

20 I have a question for Mr. Giulietti. Would you please
21 let us know how Metro-North and the MTA looked at their safety
22 performance from an outside perspective?

23 MR. GIULIETTI: Since my involvement, there were a
24 couple things that happened as soon as we had issues, and first I
25 would tell you that the MTA looked on the issues not as just

1 Metro-North issues, but as an entire MTA issue. So they
2 approached it from all of the presidents being brought in so we
3 could all discuss what was going on.

4 The other end of it is that they also involved a blue
5 ribbon panel that included, among others, Mort Downey, who had
6 experience both at Metro-North and has experience with WMATA and
7 was able to bring that perspective in, to going over the
8 analytical information that was coming in. We also had the -- at
9 the same time, the NTSB had five investigations going on with us.
10 They had an Operation Deep Dive going with the FRA.

11 So the outside involvement, both from the -- what I'll
12 call the federal end of the mandated involvement, to the MTA
13 looking at how do we ensure that this doesn't happen again and
14 what else do we have to employ as we're going forward with it.
15 And I'm going to tell you the invaluable part for me was that as
16 we looked at -- it's an industry that's undergoing a lot of
17 changes, a lot of new technology coming in. In a lot of cases,
18 some systems got better at looking at that technology and how it
19 was going to be employed and other systems did not.

20 So even as we've gone through that, we've done an
21 evaluation of what makes the most sense, how do we bring that in,
22 and then how do you bring your employees to, one, accept what
23 that's going to do and, two, make them part of it, that it becomes
24 theirs as opposed to something being brought in from the outside
25 that's going to come on in and change the way that the work is

1 done. But we had an awful lot to go through and that's the best
2 that I can give on it is, from being the person that got brought
3 in, watching how the MTA responded was critical, because there was
4 never a time that I did not feel that I had the support of the MTA
5 to make the changes that we felt were necessary as we were going
6 through.

7 MR. DOUGHERTY: Thank you, sir. I appreciate that.

8 That concludes WMATA's questions, Chairman Hart.

9 CHAIRMAN HART: Thank you very much. And that concludes
10 the questioning by the parties for this panel.

11 Now we will move to questioning by the Board of Inquiry.
12 Each Board member will have 5 minutes and we'll see again if we
13 need a second round of questions. So we will start with Member
14 Sumwalt.

15 MEMBER SUMWALT: Good morning. Mr. Madaras -- and I'd
16 like for all of the panelists, if you would, when I'm asking the
17 questions I've got a clock here, I've got 5 minutes, so keep your
18 answers very succinct, if you would, please.

19 Mr. Madaras, you talked about the Confidential Close
20 Call Reporting System and you talked about the -- you want it to
21 be an open conversation versus a tool used for retaliation. Is it
22 your belief that a Confidential Close Call Reporting System should
23 involve no discipline under any circumstances?

24 MR. MADARAS: Outside of criminal activity, I believe
25 that's what should occur.

1 MEMBER SUMWALT: We referred to this, I don't think I'll
2 pull it out because it's -- the print is so small, but this is the
3 disciplinary guideline matrix, which has been introduced into the
4 docket. And I see an item on here, "unauthorized passenger in cab
5 of train." Now, is there a very clear-cut procedure or policy
6 that you should not have an unauthorized person in the train, in
7 the train cab?

8 MR. MADARAS: Is that question for me?

9 MEMBER SUMWALT: Yes, sir, it is.

10 MR. MADARAS: Yes.

11 MEMBER SUMWALT: So that's a willful violation, is it
12 not, if somebody were to allow somebody in the train while it's
13 being moved?

14 MR. MADARAS: Yes.

15 MEMBER SUMWALT: So why would you want to allow a
16 willful violation to have no discipline?

17 MR. MADARAS: Mr. Sumwalt, I answered the question, the
18 original question, the best I could about criminal activity. I
19 can't think of all the specific parameters that would fall under
20 disciplinary action, but in general, I answered that question the
21 best I could.

22 MEMBER SUMWALT: Well, okay. We're not here to hear my
23 opinion, but you'll get it anyway. A just culture, there is a
24 line in which certain things are tolerated and other things are
25 not. So it might be good to go to school on what a just culture

1 involves. For example, this one might seem funny but it's not
2 funny. The next one above that is urinating on a bus. If that's
3 an intentional act, that's different than if someone has an
4 accident. So the circumstances need to be considered.

5 But anyway, thank you for your --

6 MR. MADARAS: Can I comment on that, please?

7 MEMBER SUMWALT: I wish you would.

8 MR. MADARAS: Urinating on a bus is an issue that we
9 deal with on a regular basis, and the reason that that occurs is
10 because there are not sufficient bathroom locations for the
11 operators to be able to relieve themselves in a dignified manner.
12 We constantly battle with the -- with WMATA to try to make sure
13 that we have sufficient facilities available for the operators.
14 And some operators, they just don't have the facilities to be able
15 to use. So, I mean, are you going to discipline a person for
16 urinating when there's no facility for them to go? I mean, what
17 are they supposed to do?

18 MEMBER SUMWALT: So I think that was the point that I
19 just made. It's dependent on the context. If it's an intentional
20 act, that's different than someone who is not able to control
21 their bladder. I understand that and my point is, is that a just
22 culture, there is a line and usually willful violations are not
23 tolerated.

24 I'd like to move now to Mr. Troup. You talked about the
25 WMATA 1000 program and I think you mentioned that it's cross-

1 disciplinary and it focuses on developing processes and
2 procedures. Is that correct?

3 MR. TROUP: That is correct.

4 MEMBER SUMWALT: Okay, so what do you have in place to
5 focus on compliance with those processes and procedures?
6 Yesterday we heard Mr. Ballard talk about, in the ROCC, they have
7 checklists to follow, but those checklists aren't routinely
8 followed. So what do you have in place to ensure compliance with
9 those established policies and procedures?

10 MR. TROUP: Within that, we have two ways that we do
11 that, is with the engineering department. The engineering
12 department has assigned engineering maintenance personnel that
13 they go in, through a periodic basis, they go and do audits on,
14 specifically on -- to make sure that the tests are being done,
15 being done properly.

16 In addition, our reliability group listed our Maximo
17 work orders, and from those Maximo work orders they can indicate
18 -- a monthly report is issued for PMI compliance. So we look for
19 -- this is part of the PMI compliance that we look at. You know,
20 generally, most every department gets between 95 and 100% for the
21 PM compliance. We can immediately check on those. We do the
22 audits of actually going out and making sure that the test has
23 been done correctly.

24 And we have recently expanded our QAW department to
25 include infrastructure. It was originally just on the vehicle

1 side. We have QAW on the vehicle side, but we've recently
2 expanded that to be able to include the infrastructure side for
3 track and ATC, as well. So the QA does generalized audits on
4 being able to go out and make sure the track is being done and
5 installed correctly in addition to the ATC compliance checks.

6 MEMBER SUMWALT: Okay, thanks. We're out of time.
7 Thank you.

8 CHAIRMAN HART: Thank you, Member Sumwalt.
9 Member Weener.

10 MEMBER WEENER: Thank you, Chairman Hart.

11 Mr. Troup, I understood the Confidential Close Call
12 Reporting System applied to a subset of the employees, employee
13 levels. Is that correct?

14 MR. TROUP: That's correct. What we did is we rolled
15 out the -- we modeled it after the Class I's, the freight
16 railroads' and a couple of passenger railroads' close call
17 programs. So it's mostly within the rail department itself. The
18 employees include all the people who are engaged in the
19 maintenance of the right-of-way and all of the train operators and
20 all of the people who are operating the trains as well. So it's
21 basically within the rail department. We have expanded that out
22 to our treasury and revenue collection group as well. And because
23 of the success of that, we're very fortunate, again, that labor
24 has asked us to look at putting that out to the bus operators as
25 well, the bus drivers as well. So we're in the infancy of being

1 able to negotiate that and be able to establish that program for
2 them as well.

3 MEMBER WEENER: So how is that information moved up the
4 line, so to speak?

5 MR. TROUP: For the Close Call Reporting?

6 MEMBER WEENER: Any of the safety information that you
7 get from the first-line employees.

8 MR. TROUP: Well, for the Close Call Reporting, you
9 know, again, it's through the Bureau of Transportation Statistics,
10 and the Bureau of Transportation Statistics, they make a
11 determination of whether it rises to a close call reporting
12 mechanism. They move that to the Peer Review Team; the Peer
13 Review Team then analyzes that. They make a decision on whether
14 it is, in fact, a safety issue that has been reported and then
15 what actionable items are required out of that. That then goes
16 directly to me. So that information goes directly to me for the
17 actionable items. Many times I will take those actionable items,
18 I will make directives as to who is the responsible owners for
19 that, where the resources are coming from, and then what the date
20 is for completion on that. That is returned back to the Peer
21 Review Team and that is included on our website to be able to say
22 these are the actions that we are taking.

23 Other times, what I'll do is I will send information
24 back to the Peer Review Team, I'll ask for clarification on items,
25 you know, different things. Maybe I see something a little bit

1 different that I'm asking them to clarify, and they will generally
2 come back to me. And to my recollection, I have not denied a
3 single actionable item from the Peer Review Team. We have acted
4 on all those.

5 So that's the way the process works. I think the
6 process works well. Being able to get back to the employees in
7 regards to being able to advertise that through the website, we're
8 looking at different means and methods. Like I said, we can
9 always get better. I think it works well. But, you know, what is
10 important to me is hearing from Mr. Madaras and labor, to say,
11 okay, we are not getting that; you may think you're giving this
12 information back to us, but we're not getting it.

13 But the actionable items, again, to be very clear, the
14 actionable items are provided to me from the Peer Review Team, I
15 make a determination of who the owner is, where the resources go
16 on that, and what the time frame of completion is for that.

17 MEMBER WEENER: So, if I understand you correctly,
18 you're the top level for safety adjudication?

19 MR. TROUP: For this particular program, yes.

20 MEMBER WEENER: For this particular program. What about
21 just safety in general?

22 MR. TROUP: Safety in general, we look at that from the
23 perspective of -- again, it's Executive Safety Committee. It
24 probably is one of the items that we -- the way that we do that
25 for, you know, we reach a level of consensus on the prioritization

1 of projects.

2 MEMBER WEENER: And who is on the Executive Safety
3 Committee?

4 MR. TROUP: That's all the -- that's basically, the
5 union is represented and all the executive team is represented:
6 bus, rail, safety is on that; Chief Pavlik is on that.

7 In addition to the Executive Safety Committee, we have
8 our capital needs inventory, which is adjudicated through
9 basically the capital needs group that comes in and makes
10 determinations if we have these processes and procedures.

11 There's a process where we have basically an executive
12 team and then just the lower level teams, which are their reports,
13 we get in a room, we talk about the capital needs that we have.
14 Again, safety rises to the top as far as safety. The safety
15 committee does a risk matrix for the different items, hazard
16 analysis on all the different items so that it's, you know, a very
17 clear methodology to be able to say these are the things that we
18 need to do, these are the things that we need to address. I mean,
19 I think one of the important things is when we look at the track
20 circuits, for example, the track circuits that exhibited parasitic
21 oscillation that became a future priority for us to be able to do
22 the replacement of those track circuits. You know, the risk
23 register indicated that and, again, we prioritized that, both in
24 our financial resources and also in our time and space for the
25 track.

1 MEMBER WEENER: So then I would gather the top level of
2 safety is the Executive Safety Committee?

3 MR. TROUP: I'm sorry. Say again?

4 MEMBER WEENER: The top level of the safety, where they
5 have the information flow up, is the Executive Safety Committee?

6 MR. TROUP: Yes. Any -- yes, that's what I would say,
7 is the Executive Safety Committee has the top level adjudication
8 of any safety issues, that anything can be brought forward. Any
9 concerns that people have can be brought forward in that format in
10 regards to any safety initiative.

11 And one thing I forgot, too, is that the TOC also
12 participates in our Executive Safety Committee as well. I do want
13 to be very clear on that. So that is probably the final
14 adjudication of issues that we have for any safety issues that we
15 would --

16 MEMBER WEENER: So what's the relationship in terms of
17 safety in your part of the organization relative to the board of
18 directors?

19 MR. TROUP: Well, obviously the board of directors
20 provides that, you know, provides that direction. It's very
21 important for us to be able to --

22 MEMBER WEENER: What direction does the board of
23 directors --

24 MR. TROUP: The board provides the directions in regards
25 to establishing the safety culture, making sure that the safety

1 processes are brought forward, making sure that the financial
2 resources are available to us. You know, we will come to the
3 board with our safety initiatives, you know, to be able to get the
4 proper resources for those. Like I said, the resource is not just
5 of the financial element, but the time and space that we need for
6 those. So, you know, we go through and we make determinations to
7 the board about our requirements and what we need for those.

8 MEMBER WEENER: Thank you.

9 CHAIRMAN HART: Thank you, Member Weener.

10 Vice Chairman Dinh-Zarr.

11 VICE CHAIRMAN DINH-ZARR: Thank you, Mr. Chairman.

12 Mr. Giulietti, this question is not for you, but I just
13 wanted to say I appreciate your perspective that you've given us
14 this morning.

15 And I recognize that WMATA has made some good efforts,
16 especially since the Fort Totten incident, such as -- in addition
17 to the Close Call Reporting, doing the safety surveys, doing the
18 smoke incident study. So I appreciate the fact that you're going
19 out and seeking information. So my question is, could you
20 elaborate more on what you're doing with this information? And in
21 your answer, if you could be sure to address a question that we
22 had yesterday about the smoke incident detection study, which was
23 deferred to your panel, what do you intend to do with those
24 results? So Mr. Troup, please.

25 MR. TROUP: Thank you. Obviously, the studies are

1 important to us to understand what we can do better. But
2 specifically in regards, and I think it's probably the best thing
3 to do is to take that example of the smoke detection study to kind
4 of tell you how things go.

5 So I had asked my deputy chief of communications and
6 network systems to be able to go out and make an analysis of
7 available smoke detection technology, you know, that might work in
8 our system and to be able to bring that back to me. That
9 information was brought back in regards to information and
10 technology that might be able to work in our system. We are
11 further refining that study to understand exactly what the cost of
12 that would be and to further understand, from our industry and
13 peer leaders, what their experience has been with that. We
14 recently brought in the APTA Peer Review Team, a number of people
15 that work in environments like ours, specifically PATH, which had
16 the -- one of the leaders for the NFPA 130 regulations was on
17 that. We had significant conversations about the smoke detection
18 within the tunnels. It's not an NFPA 130 requirement.

19 And again, what I am concerned mostly about is, you
20 know, you have prevention, detection, and response. Obviously,
21 prevention is one of the first and foremost things that you need
22 to be able to establish. So, you know, when we are looking at
23 something, I want to make sure of a couple of things.

24 First of all, is it executable, can I do it in a
25 reasonable time frame that makes sense for the property? And is

1 it sustainable? Is it a technology that can work in the
2 environment that it is and be sustained? And that's one of the
3 things that is most critical to me is, you know, do we take this
4 technology, do we put it in our environment, and can it be
5 sustained? When I look at it, you know, what we'll make decisions
6 on, in concert with the safety department and our security people,
7 as well, is what is the effectiveness of this technology; can it
8 be sustained?

9 And maybe what we say from that is, you know, we don't
10 feel that right now it's the right thing for us to do or maybe
11 what we'll say is we want a pilot project. Right now, from
12 everything that I have seen, you know, I'm not going to commit to
13 being able to put this system-wide because there's not currently a
14 technology that exists within a rail transit system as large as
15 ours that can effectively detect smoke. So, you know, maybe we
16 can do a pilot project to understand what those requirements are.

17 VICE CHAIRMAN DINH-ZARR: Sorry to interrupt,
18 Mr. Troup --

19 MR. TROUP: Certainly. No, no, problem.

20 VICE CHAIRMAN DINH-ZARR: -- since I'm running short on
21 time.

22 MR. TROUP: Yeah, sure.

23 VICE CHAIRMAN DINH-ZARR: What is -- and what's your
24 time table in hoping to either make a decision about the results
25 of the smoke incident study or to take action?

1 MR. TROUP: My time table for that, I would -- by the
2 time -- I would say certainly before the end of the year for that,
3 to be able to make a determination whether we go forward with the
4 pilot program or not.

5 VICE CHAIRMAN DINH-ZARR: Great, thank you.

6 So my second question is also to you. The Tech Panel
7 has addressed some of the communications issues, and just reading
8 the transcript and the testimony of some of your colleagues
9 yesterday, it seems like there is some -- not everyone understands
10 the issues important to other departments, and so I get it that
11 you've addressed this among the leadership. I am appreciative of
12 those morning meetings that you talk about. Is there also -- is
13 this also being addressed among the staff, including among the
14 Transit Police, Chief Pavlik, and others? I mean, things like
15 cross-training or observation between different departments?

16 MR. TROUP: Yeah, absolutely. You know, we look for a
17 lot of different methods to be able to cross-train. I mean, this
18 is not just within, you know -- my organization has a lot of
19 cross-discipline requirements to it, you know, the cross-
20 discipline between power, between power and ATC, between ATC and
21 track. So I recognize that that needs to occur. And again, we
22 have Office of Emergency Management on the floor in the ROCC. You
23 know, we look at those things. We will bring our communications
24 people in to the floor of the ROCC, so that we can understand how
25 we need to communicate out to the people.

1 Again, we have a significant amount of tabletop
2 exercises that we do. The cross-training exercises that we do for
3 the drills include everybody in that, including field-level
4 people, to be able to understand about being able to respond to
5 incidents and actions that occur. Our Emergency Response Team, we
6 worked very, very closely with the Transit Police to be able to
7 have an emergency response vehicle that we could utilize with one
8 of their drivers.

9 So there are challenges. We recognize, you know, that
10 this needs to happen. And again, you know, we look for every
11 effort to do that and there is a lot of opportunities for us to do
12 that as well. Specifically speaking, like I said, the events, all
13 the events that we plan out for -- the one coming up here on the
14 4th of July, we will have events, we will have planning events
15 where everybody comes into the same room for the 4th of July
16 event, where we'll go through the operations plan, where the
17 police will go through the security perimeters, where we talk
18 about contingency plans. And everybody will be in that room to be
19 able to manage through those events. So we have a number of those
20 that we do throughout the year.

21 VICE CHAIRMAN DINH-ZARR: Thank you. I'm out of time,
22 but I'll continue later if the Chairman will allow.

23 CHAIRMAN HART: Thank you, Vice Chairman Dinh-Zarr.

24 I have some questions about the Close Call Reporting
25 System, as well. First of all, kudos for doing that because

1 that's been a huge challenge to bring labor and management
2 together, because the linchpin of it is trust and that's why it's
3 so difficult to build and so easy to destroy. But the granddaddy
4 of these programs is in aviation and in aviation they have
5 exclusions for wrongful intent, and that's what Member Sumwalt was
6 referring to, and criminal activities, which are typically
7 wrongful intent. They also have exclusions if there is an actual
8 accident, then all bets are off there because they're going to get
9 the information. Other than that, in aviation, there are no
10 events that are excluded from the program.

11 But I notice in your program there are several events
12 that are excluded, so first question will be how is that decision
13 made regarding excluding types of events? Because one that comes
14 to mind is running a red signal, okay. So engineers who run a red
15 signal don't -- we're pretty sure they don't do that on purpose
16 because they know their likelihood of getting hurt increases
17 substantially if they run a red signal, but yet -- and that's a
18 huge safety issue and we certainly want to know about it, but now
19 it's excluded from the program so we are not collecting
20 information about running red signals. So that's just one of
21 three or four or five examples of event types that are excluded
22 from the program. So I'd be interested in knowing what was that
23 process for deciding what types of events would not be included in
24 the protection of the program?

25 MR. TROUP: And again, the process for being able to

1 define those events was negotiated between labor and management.
2 For the red signal violations, again, one of the important parts
3 about Close Call is it is an event that we would not otherwise
4 know about. We know about red signal violations right away. We
5 get alarms for the red signal violations on that. But that end,
6 we recognize the red signal violation events and we don't want
7 people to do those.

8 So while this may be excluded from our Close Call event,
9 what I've also done is be able to say, okay, let's look at a red
10 signal violation comprehensively. You know, simply applying
11 discipline may not be, you know, the most -- you know, the only
12 method that we have to be able to do that. One of the things that
13 we did is we brought in a psychological group, Atticus, so that we
14 could understand the parameters, why they -- why people are
15 running the red signals, why do they do that, how can we prevent
16 that from happening.

17 Again, running a red signal is a leading indicator if it
18 doesn't result in an injury or fatality or major accident. So we
19 want to say how can we prevent those in the future. So
20 recognizing that those are excluded, I still was very intentional
21 to say, okay, recognizing those -- and taking the FAA model, which
22 I'm very interested in, to be able to say, okay, now what can we
23 do to prevent those; what are the psychological factors that we
24 can apply there? So the Atticus group came in, they did a very,
25 very comprehensive study. They've applied a number of

1 recommendations and suggestions to us, many which we'll be
2 implementing on those.

3 So generally, for the events that have been excluded,
4 it's because it's information that we would have known otherwise.

5 CHAIRMAN HART: Thank you.

6 And I have the same question for Mr. Giulietti. Thank
7 you, Mr. Giulietti, for coming from New York to help us with this.
8 But I've had the same conversation with him about excluding
9 certain types of events and red light running, red signal running,
10 was one in particular. Does your program have exclusions for
11 types of events, because I know you were looking to get an
12 exception regarding the red signal?

13 MR. GIULIETTI: We're still in negotiation because of
14 the union involvement with it, but I would say to you that the
15 answer that you just got is exactly to the point. The red signal
16 violations are triggered within our command center and we know how
17 many times that's happening and what else has to be involved in
18 order to go after that. What you want from the Close Call
19 Reporting System is that the things that you're not going to see
20 are going to come forward, so that way you get to see what you
21 would not have normally found out about. And I'm going to say one
22 other part of this is that we've not only merged this in with the
23 unions and brought all the unions to sit down and talk about it,
24 but the FRA is part of it with us as we're going through this
25 going forward.

1 CHAIRMAN HART: Thank you. That's very helpful.

2 And then speaking of union engagement, then, I would ask
3 the rep from the union, Mr. Madaras, what is your view on that
4 type of issue, excluding events from the protection of the
5 program?

6 MR. MADARAS: The idea that -- and understanding that
7 the union has a -- Close Call Reporting is to try to get the
8 employees to report unknown safety concerns; therefore, the more
9 exclusions you have, the more apprehensive the employee is going
10 to be to wanting to know whether the issue that they're reporting
11 is covered under Close Call or not.

12 And it also gets back to the disciplinary thing. The
13 union is not opposed to having discipline for somebody doing
14 something intentionally. I mean, I understand what Mr. Sumwalt's
15 question was. But our idea is that we want to get the employees
16 to talk about unsafe conditions. So the more restrictive we get,
17 the less likely they are to talk. So we -- we're kind of in
18 between this thing and we're trying to navigate the communication
19 level. And it's difficult, because there is a lot of cynicism at
20 times and we continue to put it¹ out there.

21 We care deeply about the safety of our employees and
22 also of the public. Most of us who have families, they use the
23 system, so, I mean, there's a lot at stake here. So we want to
24 know what they are. We want to know if there's an unsafe

¹ Mr. Madaras noted that he was referring to the Close Call Reporting Program.

1 condition, tell us about it. We're going to find an avenue by
2 which you're going to feel comfortable in reporting that to us.
3 The Close Call Reporting Program is probably one of the best
4 avenues that I've ever seen come about. I really encourage the
5 use of the program.

6 CHAIRMAN HART: Well, thank you for that. And again,
7 kudos to you guys for starting these programs because that's
8 pushing a very big rock up a very big hill and I appreciate that.

9 I'm out of time. Member Sumwalt?

10 MEMBER SUMWALT: Mr. Madaras, thank you for your
11 clarification on that.

12 Mr. Troup, a red light violation is a very serious
13 offence, correct?

14 MR. TROUP: Correct.

15 MEMBER SUMWALT: Okay. So when that red light comes on,
16 this one here, on the timer, we've got to stop. So I don't want
17 any red light violations. Keep your answers very succinct, okay?

18 CHAIRMAN HART: You can report it to our near miss
19 reporting system.

20 MEMBER SUMWALT: Mr. Troup, there was a biennial -- in
21 2010, according to the FTA's SMI that was released last week, one
22 of the initiatives that WMATA had started was a biennial employee
23 safety survey, safety culture survey. So the first one, I think,
24 was done in 2010 and that's the only one that I have; that's
25 Exhibit E22. Have there been safety culture assessments done

1 since then?

2 MR. TROUP: The most recent, which also dealt with
3 safety, was the employee opinion survey, which was conducted in
4 2014, and that had safety components to it.

5 MEMBER SUMWALT: Okay, thanks. And do we have those? I
6 did not see those in the record, but we'll check and if we don't
7 have -- there should have been one -- if, in fact, you had a
8 biennial commitment, the one I have is 2010, so that means the
9 next one should be in 2012 and another one 2014, so I'm not sure
10 if we have those.

11 Dr. Poland?

12 DR. POLAND: Member Sumwalt, Dr. Groff just gave me
13 Exhibit E6, which is WMATA's 2014 Employee Engagement Survey
14 Results, and he said that that compares the 2014 results to the
15 2012 results. Is that what you're looking for?

16 MEMBER SUMWALT: It is, indeed.

17 DR. POLAND: Okay.

18 MEMBER SUMWALT: And the fact that I guess it's an
19 employee engagement as opposed to safety culture survey or so, I
20 did not see it. So I just wanted to make sure we had it. Thank
21 you, Mr. Troup.

22 This question is still for you, Mr. Troup. And I know
23 that when Mr. Giulietti took over Metro-North, even after he took
24 over Metro-North, there had been initial time -- on-time
25 performance metrics of 97%. He came in and said, you know, we've

1 got to get safety first and get these priorities in the right
2 order, and I think he said our goal is going to be 93%, maybe it
3 was 92%. He got pushback from elected officials, in fact, the
4 governor of New York -- I'm sorry, Connecticut, as well as the DOT
5 secretary from Connecticut.

6 Are you, in WMATA, getting any type of political
7 pressures either from your board or from other political
8 officials, elected officials, for on-time performance within your
9 system?

10 MR. TROUP: No, sir. We are not getting any pushback
11 from -- in regards to our on-time performance and particularly as
12 it regards to safety. Obviously, we have metrics that we try to
13 accommodate for those on-time performances but, again, I want to
14 be very clear, our on-time performance is affected by a certain
15 number of track outages that we do. Our on-time performance can
16 be affected by our weekday track outages which we're recently
17 going to take. I have not gotten any pushback whatsoever from the
18 board in regards to being able to take these track outages, these
19 single track outages, on that. They've been very, very supportive
20 of those elements.

21 MEMBER SUMWALT: Thanks. I don't necessarily read the
22 local papers. I don't follow Twitter and things like that. Are
23 you getting social pressures from the media and social media for
24 shutting down elevators and tracks and things like that to perform
25 systems work?

1 MR. TROUP: You know, reality is -- I don't want to say
2 that it's pressures to do that. Obviously, there are concerns
3 when we do that, to be able to manage to this. You know, there is
4 an inconvenience to our passengers, which we understand and we try
5 to manage to the best way that we can. I don't feel any pressure
6 for it, you know. And whether it's out there, I don't know, but I
7 do not feel any pressure for it. And I realize that I have 30
8 seconds, but -- and I may have a red signal violation here. But
9 as an ATC engineer, which I, you know, was at Amtrak, as an ATC
10 engineer, again, safety and efficiency, safety being the primary
11 goal on that. I never feel any pressure to compromise safety in
12 anything that I do.

13 MEMBER SUMWALT: Okay. And I understand you don't, but
14 sometimes the system can feel that pressure, so any metric of --
15 any gauge of how the system feels?

16 MR. TROUP: You know, from the people I talk to,
17 absolutely not. I know that the ROCC recognizes that. I know
18 that our field staff recognize it. I point to the fact that our
19 track geometry vehicle is out there doing ultrasonic testing. If
20 they run into an issue at 5:00 right before rush hour, they know
21 that they have the opportunity, if need be, that they can take
22 that track out of service and do that repair and the ROCC knows
23 that they need to manage around that.

24 MEMBER SUMWALT: Thank you. Thank goodness I'm color
25 blind. Thank you.

1 CHAIRMAN HART: Thank you, Member Sumwalt.

2 Member Weener.

3 MEMBER WEENER: It's the little light on the right.

4 (Laughter.)

5 MEMBER WEENER: Positional awareness. Mr. Troup, we
6 talked about, the last round, about how safety reporting goes up
7 the chain at WMATA. You have an organization with safety in the
8 name. What's the responsibility of that organization?

9 MR. TROUP: The responsibility of that organization is
10 to interface directly with the operational maintenance departments
11 and the other departments, as well, to be able to do a number of
12 different things that they do for us. They provide us the level
13 of resources that are necessary out in the field to make sure that
14 our work processes are being done safely. We have a significant
15 amount of work that we have going on. Safety is often out there
16 looking at our work processes, making sure that people are working
17 safely, getting information back from those. So they're actively
18 engaged on the field level from our work processes. In addition,
19 they're actively engaged in collecting the statistics behind our
20 injuries so that we can understand where they are, and that's very
21 important.

22 You know, we recently had a number of injuries in ELES,
23 our elevator and escalator group. We were able to define exactly
24 what those were, lifting-and-pulling types of injuries. So we
25 looked at those very, very closely, recognize that they work in

1 confined space, and when I say confined space, I'm not talking
2 about OSHA confined space; I'm just talking about they're working
3 in a confined space. And what we recognize is that because of
4 that, the ergonomics was poor, so we were able to improve those
5 ergonomics through the use of better tools, equipment, lifting, to
6 be able to do that, and they assist us in that methodology.

7 In addition, that they -- our site-specific work plans,
8 as we go through processes for work, they look at our site-
9 specific work plans and they sign off on all of those. Site-
10 specific work plans include things like how the equipment's going
11 to move, where the work zones are going to be set up, how many
12 people are going to be set up, how the ventilation flow is going
13 to go, where the electrical current is going to be turned off,
14 who's responsible for that, the time frames that they go out
15 there, and again, like I said, they will send people out there to
16 manage against that.

17 In addition, they look at our specifications and our
18 submittals. They provide information on our specification
19 submittals and they also are very involved in our safety and
20 security certification processes, which we do with the TOC and the
21 FTA, to be able to set up that system so that we can do our safety
22 and security certifications on things like the Silver Line.

23 MEMBER WEENER: I presume that's Mr. Dougherty's
24 organization?

25 MR. TROUP: That is correct, yes.

1 MEMBER WEENER: That's correct. A little broader
2 question. You're familiar with the concept of safety management
3 systems?

4 MR. TROUP: Yes, I am.

5 MEMBER WEENER: Where would you say WMATA is in terms of
6 maturity of implementation of safety management systems?

7 MR. TROUP: If I could go from, you know, a scale to --
8 1 to 5, you know, looking at that, I would say we're probably
9 somewhere between like a 3½ on something like that. Again, we're
10 a maturing organization. We had to set the basis and the
11 foundation to be able to set that up, to be able to do these
12 things. Again, we're very, very good at leading indicators.
13 We're very good at doing analytical work with the safety
14 department, with our operations people.

15 Every incident gets a DGMO report that is consolidated
16 and collected by me. That gets transmitted to the safety
17 department. They get information and then they make a final
18 disposition on that and PATH moving forward. And again, our
19 leading indicators, having the Close Call program, you know, is a
20 great opportunity for leading indicators, and that's what we are
21 maturing into, being able to be able to define what those leading
22 indicators are and also recognizing programs like, you know, it is
23 -- you know, we have to look at how do we prevent these injuries,
24 how do we prevent these accidents before they become significant
25 incidences. Like I said, the red signal violations, being able to

1 look at that comprehensively rather than just through a matter of
2 discipline. So I think we are maturing at that. I really, really
3 like the way that we're going. I like the support that we get
4 from top to bottom; I like the support we get from the board,
5 through my staff, through the safety department and, again, with
6 labor as well. And I think that that's illustrated in the Close
7 Call program.

8 MEMBER WEENER: All right. Thank you very much.

9 One last question, and this goes back to aviation in
10 terms of operating airplanes. The pilot has emergency authority
11 to violate any of the federal air regulations in the case of
12 handling his emergency in the best way he can see forward. Is
13 there such a thing in WMATA's operational --

14 MR. TROUP: No. And I tell you, and as a private pilot
15 myself, I understand what you're saying there and it is a little
16 bit different environment. It's a little bit counterintuitive to
17 understand, but because we work in two dimensions rather than
18 three, our ability for the operator to make those cognitive
19 decisions on the movement of the train -- you know, what we don't
20 want is the operator to get into a situation that they make the
21 situation worse. So from that perspective, what I'll say is we
22 will look at that, you know, we look at that very, very closely,
23 but there's nothing that comes to my mind where the operator can
24 make cognitive decisions similar to the way that a pilot would to
25 disobey, you know, an FAA or, you know, air space regulation or a

1 control tower. And again, that's because we work in two
2 dimensions rather than three and the ability for an operator to be
3 able to avoid something -- should he make a decision, the
4 inability for him to be able to avoid something is significant,
5 represents a significant risk. And that's, again, where we get to
6 the risk assessment on these items, to be able to say what's the
7 benefit there.

8 MEMBER WEENER: Thank you. And the little red light on
9 the right is on.

10 CHAIRMAN HART: Thank you, Member Weener.

11 Vice Chairman Dinh-Zarr.

12 VICE CHAIRMAN DINH-ZARR: Thank you, Chairman.

13 Chief Pavlik, I see Transit Police on stations and
14 trains every day and I appreciate it. They probably have an
15 opportunity to observe safety issues and concerns. Since they
16 don't use the Close Call Reporting System, how do they report any
17 safety concerns they have? And is there any plan to include them
18 in that?

19 MR. PAVLIK: Right. Basically, any time an officer
20 observes an unsafe act, they bring that to the attention of their
21 immediate supervisor and that, in turn, filters up the chain of
22 command. Law enforcement, you know, is based on a paramilitary
23 structure, so we definitely believe in that whole chain of command
24 and how that hierarchy works. Just like Mr. Troup spoke of
25 earlier, we are looking at expanding the Close Call to Bus.

1 Eventually, I could probably see Transit Police in that role
2 somewhere.

3 VICE CHAIRMAN DINH-ZARR: Thank you.

4 And Mr. Troup, I think you mentioned earlier the PLNT
5 1000 document. Could you elaborate a little more on that,
6 especially as it relates to operations?

7 MR. TROUP: Again, the model is what I'm used to from
8 what would've been the AMT 27, which is regulatory against C.F.R.
9 234 and 236 on the FRA model. And again, this is to be able to
10 provide those things from a life safety critical standpoint which
11 have to be done. There can be no deferral of these basically
12 preventative maintenance instructions. And that's what that will
13 provide. Those will provide definitive guidelines for people to
14 be able to do this.

15 They know that they need to go out there and make sure
16 that they do these tests definitively, and it segregates them from
17 the regular greasing of the switch, greasing of the components,
18 these types of items that are maintenance items, and not
19 specifically tied to the testing mechanisms for critical fire and
20 life safety issues. So it will set those parameters up for those
21 ventilation fans, fire standpipes, those different types of
22 things. And again, we have this collection that that's -- we have
23 the collection of those documents, we do have those testing
24 documents. But again, this provides them in a single-source
25 document that is easily manageable and from a configuration

1 management standpoint, is right there. It's understood what it is
2 so that the configuration management becomes much, much easier to
3 manage that over one document rather than managing that over
4 several documents.

5 VICE CHAIRMAN DINH-ZARR: Thank you.

6 DR. POLAND: Dr. Dinh-Zarr, can -- I'm going to ask to
7 pause your time so I don't take up your time in this
8 clarification.

9 VICE CHAIRMAN DINH-ZARR: I appreciate that.

10 DR. POLAND: Staff is interested in the PLNT 1000
11 document and I guess I'm asking for a clarification. Is that
12 actually a document and is it a WMATA document or an Amtrak
13 document?

14 MR. TROUP: No, the PLNT 1000 is not a document that
15 we've finished yet. It's one that we're currently developing.

16 DR. POLAND: And is that something that will be in the
17 near future or is that long term?

18 MR. TROUP: That is in the near future, yes.

19 DR. POLAND: Can you please provide that to the NTSB so
20 that we can enter it as an exhibit? And if it's not going to be
21 ready by the July 24th deadline, we'll take it after that.

22 MR. TROUP: After July 24th.

23 DR. POLAND: It will be after July 24th?

24 MR. TROUP: Yes.

25 DR. POLAND: All right, thank you. So we'll list that

1 as an exhibit that we'll add to the docket, but it likely will be
2 after July 24th, if that's okay with Chairman Hart.

3 CHAIRMAN HART: It sounds like a plan to me.

4 DR. POLAND: Dr. Dinh-Zarr, sorry to take your time, but
5 we paused it so we'll start it back up again. Thank you.

6 VICE CHAIRMAN DINH-ZARR: Thanks, Dr. Poland. That's
7 very kind of you since I have so many questions.

8 So just to clarify, back on the previous round,
9 Mr. Troup, I was actually asking more, when I was talking about
10 cross-training and observation, is there an opportunity -- and
11 this could also go to Chief Pavlik -- for employees to see the
12 needs of other departments from their point of view? So could you
13 give me some examples of that or if that's in the plans?

14 MR. TROUP: I'm sorry. Can you rephrase the question,
15 if you could?

16 VICE CHAIRMAN DINH-ZARR: Sure. So in talking about
17 communications, we have lots of -- it seems that there are some,
18 you know, differences in what our priorities, perhaps, and
19 interpretations -- because different departments may not quite
20 understand the priorities of other departments. And I know you
21 address that in the leadership, so this is talking specifically
22 about people on the ground. Is there an opportunity for them to
23 see each other's work and their priorities from their point of
24 view?

25 MR. TROUP: I specifically don't know of any formal

1 procedure that we have to be able to enable that. There obviously
2 is a lot of -- between our departments, like I said, the field
3 level people -- for example, you know, we installed 178 guarded #8
4 switches. There was a coordinated effort to be able to do that,
5 that included power ATC and the track personnel to be able to see
6 those different challenges that we have.

7 One of the things that we will start doing is being able
8 to provide our rail operation controllers the opportunity to go
9 out to be able to, you know, see how work zones are set up, the
10 different types of things that we're doing. Additionally, the
11 senior leaders and management come into the ROCC during -- to our
12 Rail Operations Control Center during shutdown periods. They
13 actually come into the ROCC during our shutdown periods so they
14 can see the different items, the different things that they go
15 through, and to be able to assist them in that. But there is no
16 formalized -- we currently have no formalized methodology for that
17 cross-training that I'm aware of.

18 VICE CHAIRMAN DINH-ZARR: Thank you. Just in time.

19 CHAIRMAN HART: Thank you, Vice Chairman Dinh-Zarr. No
20 red light violation on that one.

21 I just have sort of a final sort of a big picture
22 question, which is, other transit properties are trying to move
23 the safety culture needle too, and I just wonder how much do you
24 exchange notes with each other? Because Mr. Giulietti mentioned
25 how they reached out to others, and I'm just wondering, from the

1 standpoint of WMATA, how much do you reach out and exchange notes
2 with others? Because, of course, what we're trying to do here is
3 not only learn lessons that can benefit you, but can benefit the
4 transit operators in general. So to what extent do you -- are you
5 reaching out to try to help you move that safety culture needle?

6 MR. TROUP: Through a number of different ways. First,
7 we have the APTA peer reviews which we participate in and have a
8 number of APTA peer review committees come in for us. I think
9 it's an excellent opportunity for the sharing of information among
10 peer to peer. It's critical that they understand the issues that
11 are -- that we face, we understand the issues that they face. We
12 get a lot of lessons learned from that.

13 Like I said, recently we had the APTA Peer Review Team
14 come in for our Rail Operations Control Center. The APTA Peer
15 Review Team did a peer review on our capital program. We had an
16 APTA Peer Review Team come in and do a peer review on our heat
17 countermeasures program for our track laying. So that was very,
18 very critical to us to be able to bring those in.

19 In addition, we have people participate in the APTA Peer
20 Review Team as part of the Peer Review Team, that they go out.
21 I've had the ability to do that, and you learn so much from that.
22 You know, you probably learn more from them than you provide them
23 information back. So it's critical.

24 In addition, we have people who are involved in
25 leadership roles for the APTA committees. You know, our rules

1 committee, our recently retired director of ROCC was a leader in
2 the rules committee for APTA and, you know, we have extended that
3 to other personnel in our ROCC. So there's a lot of avenues for
4 us to be able to do that, both formally and informally.

5 Our deputy chief engineer ATC meets with the Eastern
6 Signal Engineers on a quarterly basis, I believe. So, you know,
7 he has the opportunity to be able to go and talk through issues
8 there. And again, what we found is that we found that, you know,
9 they can share ideas on that. You know, through our loss-of-shunt
10 tool, we found that rail profiling, you know, we create a loss-of-
11 shunt condition and we shared that to the industry and they were
12 very interested in hearing that. So that's the kind of important
13 stuff that we are able to share.

14 MR. PAVLIK: If I could, from a security standpoint,
15 really quickly, sir, we have the Peer Advisory Group, which is the
16 top 20 transit chiefs in the United States, where we have a
17 monthly conference call with a federal partner from TSA, and then
18 we meet once a year on an annual basis along with the APTA
19 conference where we have a security roundtable where we review
20 concerns and issues going on in the industry.

21 CHAIRMAN HART: Thank you, that's very helpful.

22 And, Mr. Giulietti, I'd be interested if you have any
23 thoughts on reaching out and sharing, exchanging notes with
24 others?

25 MR. GIULIETTI: One of the things that we did almost

1 prior to any of the releases of information coming out is that we
2 called for an industry review. We sat down with the FRA and
3 everybody within the commuter rail industry came, and it was an
4 extremely open and candid review of what we were finding was going
5 on within our system. From that, every one of those systems went
6 back out to go and see, if indeed, some of the same things were
7 happening on their systems.

8 The FRA has found this invaluable; as an industry, we
9 found it invaluable. And it was, you know, truly from the support
10 of the MTA that the MTA said go and do this, it's the right thing
11 to go and do, and that way the industry can discuss what's going
12 on. And again, I will also say, through APTA, as well, we work
13 with it, but we've also been doing an awful lot with both FTA and
14 FRA, letting them know what the progress has been.

15 CHAIRMAN HART: Great, thank you. That's very helpful.

16 Now before I return to the Tech Panel for questions, let
17 me see if any members have any further questions.

18 Member Sumwalt?

19 MEMBER SUMWALT: Thank you.

20 Mr. Giulietti, I want to make sure that we, as a Board,
21 as an agency, are sending the right message and we appreciate your
22 being here very much. To be clear, in November, November the
23 19th, in fact, the Board adopted a safety, a special investigation
24 report of the organizational issues with Metro-North, and that was
25 done. The issues that we reported on were largely before you

1 came, so I think the reason that we have you here today is to talk
2 about what you're doing and your organizational team are doing to
3 try and change that organization. But I don't think that we're
4 trying to hold up the old Metro-North, necessarily, as the right
5 way of doing it and I want to make sure that we're clear on that.

6 So what do you feel your most important function as a
7 CEO is? And the reason I ask that, I think we can learn from
8 that, but also WMATA will be looking for -- they will be looking
9 for a new CEO. So what is the most important thing that you can
10 do as the head of the organization?

11 MR. GIULIETTI: You know, I found that -- I said that in
12 44 years I had one NTSB investigation prior to going to Metro-
13 North. And when I came down to go meet with the Board members,
14 several of you turned and said whose responsibility is it for
15 safety and I turned and said it's mine. And I wasn't trying to
16 diminish the safety department or anything else, but at the end of
17 the day, the CEO has to turn around and take leadership on the
18 safety issues. And I don't want to emphasize that -- there's been
19 some discussion about political pressure, but that is what the CEO
20 is there for, okay? In other words, you set the tone and the very
21 first thing that -- you know, I had tremendous -- you can't do
22 this without the support of a board, but I had tremendous support
23 of a board to make the changes that were necessary. And sometimes
24 it takes incidents like this in order to make change. If it
25 wasn't for Chase, Maryland, we'd still be arguing over what kind

1 of testing we could do with our crews. There's things that have
2 happened within this industry that cause a moment of pause to
3 think about what's the best steps going forward and how do you
4 make those changes.

5 So I'm going to tell you that it has been nothing --
6 it's been tough, it's been tough on the team, but it's been
7 nothing but positive. We've even turned around, you know, where
8 we've talked -- I need to clarify something. One of the reasons
9 that we haven't clarified everything in the C3RS is that we're
10 also dealing with a decertification issue with the FRA, so there
11 are other parts that go in. That's why I said it's a very
12 regulated industry.

13 But the other part that I've -- that we've done, okay,
14 as a group, is even when we've had incidents now, instead of going
15 for the formal investigation all the time, we've actually brought
16 in the players that were involved in it to turn around and say how
17 did this happen? Because we need to understand people are going
18 to say they don't -- the discussion you've had about whether or
19 not things are deliberate or not deliberate, 9 times out of 10,
20 it's not deliberate. But then how do you ensure that it isn't
21 going to happen again? And that's not going to happen by the
22 formal investigation; that's going to happen when you actually
23 bring them in and you have everybody sitting down.

24 So we've actually also enjoyed taking the people that
25 were foremen in the field, putting them into a dispatcher's office

1 so they can get the feel for what the dispatch is going through.
2 At the same time, we've moved dispatchers out to the field. We've
3 taken some of our light duty employees and put them into different
4 departments so they can start to get an appreciation, because
5 that's where the change starts to come through, is when people
6 honestly believe that there is going to be a change within that
7 organization.

8 I'm not going to run my green light. I'm going to shut
9 it off so that way if you have another question you can follow up
10 with it.

11 MEMBER SUMWALT: Well, I appreciate it. It sounds what
12 you're trying to do is remove the silo, the silos, from the
13 organization when you say cross -- basically, people are cross-
14 pollinating.

15 MR. GIULIETTI: You know, I'm going to say, as an
16 industry, the silos are breaking down. You know, sometimes the
17 railroad industry hasn't always been the quickest to go and adapt
18 to the new principles, but silo situation doesn't work and you've
19 heard it here. There's teams involved for everybody. We have
20 teams; everybody is sitting at that table. And the one thing that
21 is going on, it is not finger pointing. It's everybody listening;
22 how can we help?

23 And that's why I said it even went up to the president's
24 level. When I was dealing with issues, the presidents from the
25 other railroads were the first ones to go and say do you need more

1 geometry cars, we can lend you ours. TTCI was in there. The
2 industry does reach out to help each other.

3 MEMBER SUMWALT: Thanks. I have found this before. The
4 people at the top of the organization really do want people
5 throughout the entire organization to espouse safety. I don't
6 doubt that. But somewhere that message gets distorted. So how do
7 you ensure that you have that alignment from your desk all the way
8 out to the front lines and everywhere in between?

9 MR. GIULIETTI: I deliberately threw in there that I
10 actually went out there in the very beginning, not only to go out
11 with the gangs that are out there doing the work and to go and be
12 there for the safety stand-downs, because people need to know that
13 there can be an open communication. I have an open -- well, when
14 I say open door policy, almost every one of the unions takes the
15 time to come on in and talk.

16 And even within the first 2 weeks, I set it up that we
17 sat down, all the unions sitting down, aside from the meetings
18 with the FRA, to have candid discussions. Because every now and
19 then you want to hear, you know, their side of it because it's
20 coming up, and it isn't an "us and them." And I can tell you that
21 that's actually very, very true, but the other end of it is that
22 I've known a lot of these people for 30 and 40 years. So you know
23 that it's on all of us; it's on the unions that are involved and
24 it's on the management that's involved, and they do know that that
25 open policy is there.

1 MEMBER SUMWALT: Thank you. And it goes to something
2 that the chairman said a little while ago and that's trust. It
3 has to be built on trust.

4 Mr. Chairman, thank you for allowing an extra round on
5 this end. Thank you.

6 CHAIRMAN HART: I trust that you can maintain your
7 schedule.

8 Member Weener, you have no further questions?

9 Vice Chairman Dinh-Zarr?

10 VICE CHAIRMAN DINH-ZARR: Yes. Thank you, Chairman.

11 And I think, as Mr. Giulietti said, this is not about
12 finger pointing, this is just about making the system as safe as
13 possible and I think that's all our goal is, so thank you all for
14 that.

15 So this is a question for Mr. Troup and Mr. Madaras.

16 Mr. Troup, you mentioned earlier that WMATA is deferring
17 certain maintenance issues. Could you just give us a quick list
18 of the types of issues?

19 And then following that, Mr. Madaras, are you aware of
20 any employee concerns about deferred maintenance as it involves
21 safety?

22 MR. TROUP: In regards to the deference of maintenance
23 on that, you know, there are no safety issues in regards to that.
24 Some of the issues that we do is what we -- like I said, the track
25 geometry vehicle will pick up an anomaly in the rail, wheel burn,

1 something like that that doesn't even result in a speed
2 restriction, requires the rail to be replaced, a 39-foot plug to
3 be put into that; other items, some of the cable installation
4 resistance testing. You know, you have a progressive testing on
5 that: You have a 10-year time frame, a 2-year time frame, and a
6 1-year time frame. I'm very familiar with that, like I said, as
7 an ATC technician and an ATC engineer. You know, we've had -- you
8 can have a 1-year cable for 10 years. So some of the deferrals of
9 those items, again, as long as you have the mitigation in effect
10 to be able to take care of those and, again, this is to be able to
11 take those elements that are of the higher priority and recognized
12 a higher risk, to be able to say these are the things that we need
13 to be able to take care of in order to make the system safe.

14 VICE CHAIRMAN DINH-ZARR: Thank you.

15 MR. MADARAS: In answer to your question, I have had
16 experience with a prior safety officer that is no longer at WMATA
17 that came on board where we went out unannounced, just me and him,
18 to several ATC interlockings. And when I first met the safety
19 officer, I said, you know, I said, if you really want to get a
20 feel for what's going on out there, you and me need to go out
21 there without any managers and without anyone knowing we're going
22 out there. So we went out and I just didn't say anything. I just
23 said, look, these guys are here -- you know, this guy's here to
24 listen to what your concerns are and they just started talking.
25 And they started saying, yeah, you know, the lighting over here,

1 we've been trying to get that fixed for the last 6 months or the
2 third rail cover's missing here. They said, you know, there's a
3 spot over here that really needs to be cleaned up.

4 And I thought, wow, you know, this is really a good
5 exercise in trying to discover where the concerns are. So then we
6 went to another interlocking and it was very similar, it's just
7 they had different kinds of concerns. And I found that when you
8 ask a question about unreported safety concerns, those concerns
9 existed there, where I don't know whether those folks had actually
10 reported them or not. They said that they did, but I didn't have
11 any means by which to verify that at the time.

12 But just that sense of letting them understand that you
13 cared about what their concerns were enabled them an opportunity
14 to open up and start talking. And I've asked that we start that
15 process again. I think it's something that was a very beneficial
16 process and I think it's better for us to go to the work location
17 where the employees are working than it is to sit down with them
18 and say, hey, tell me what's going on in your work environment
19 that's unsafe because they may not think about it at that time.
20 But when we're out there in the trenches with them, they're going
21 to tell us about it. So I hope I've answered your question.

22 VICE CHAIRMAN DINH-ZARR: Thank you. Very helpful,
23 Mr. Madaras.

24 MR. MADARAS: Thank you.

25 VICE CHAIRMAN DINH-ZARR: Thank you, Mr. Chairman.

1 CHAIRMAN HART: Thank you.

2 That ends the third panel of this session. But before
3 we close, I'd like, Dr. Poland, for you to review the exhibit
4 items that we've been -- that have been requested during this
5 panel.

6 Wait, I guess I should have asked, do you have -- does
7 the Tech Panel have any further questions? Because we still do
8 have a few minutes.

9 DR. POLAND: The Tech Panel would like to take --

10 CHAIRMAN HART: Okay.

11 DR. POLAND: -- one question, please.

12 CHAIRMAN HART: Well, let's do that, then. Thank you.

13 MR. FLANIGON: This will be a question for Mr. Troup.
14 And this is leading up to lunch, so we'd ask that you be succinct.

15 In yesterday's hearing we heard about a lot of
16 smoke/fire events on the right-of-way and perhaps an uptick over
17 the last year or so. So could you talk a little bit about the, I
18 guess, the risk assessment process with those: what level was the
19 investigation; who did the findings go to; what kinds of actions
20 were taken as a result?

21 MR. TROUP: Comprehensively, for the smoke and fire
22 incidences we have out there?

23 (No audible response.)

24 MR. TROUP: Okay. So let me begin with, our reliability
25 group collects all the data on every smoke and fire incident that

1 we have. They categorize that data depending on whether it's a
2 trash fire, whether it's a cross-tie fire, whether it's an
3 insulator fire, a stud bolt fire or, you know, a cable fire that
4 we have. Once that investigation -- what happens then is that
5 information is collected and we do trend analysis on that.

6 We do recognize that we had a higher trend analysis on
7 some of the smoke and fire incidents that we had out there.
8 Specifically, the trend analysis was on the insulators. We had
9 some issues with stud bolts, for example, for stud bolt fires that
10 we were having and we went through various processes and the
11 different means and methods to be able to take care of that.
12 We've had very, very few stud bolt fires as a result of the work
13 that we've done there. Again, insulators went up a little bit,
14 particularly in the A route, so we focused our attention on that
15 and did analysis to see, you know, what was being done or what
16 wasn't being done, you know, and we looked at our insulator
17 cleaning program and our insulator replacement program for those.
18 All that analysis, again, is our fire chief looks at that through
19 the safety department.

20 Our fire chief looks at that and makes recommendations
21 based on the different items that we see. The original, the
22 initial work is done by the operations and engineering staff to be
23 able to, like I said, categorize, make sure, understand what they
24 are and then we provide that information to safety for a risk
25 assessment on those. So we have had an uptick in our insulator

1 issues which we're addressing very aggressively with the insulator
2 cleaning program that we have and also with the insulator
3 replacement program in targeted areas.

4 MR. FLANIGON: That puts us at noon.

5 DR. POLAND: Great. So I'll ask
6 Mr. Benjamin Allen to go over the exhibits that were requested
7 during this third panel of the hearing. Mr. Allen.

8 MR. ALLEN: Thank you, Dr. Poland.

9 We only have two for this panel. We are requesting a
10 clean copy of the WMATA disciplinary matrix. As was mentioned,
11 our copy's a little -- not very good. So a clean copy of that.
12 And also a copy of the PLNT 1000 document once it's complete, and
13 we understand that that will likely be after the July 24th
14 deadline for the other documents. And that's it. Thank you very
15 much.

16 CHAIRMAN HART: Thank you. That concludes this panel.
17 We will now break for lunch until 1:30 by that clock. Please
18 return in time to pass through the security system and I also ask
19 that the witnesses for the fourth panel return early enough to
20 ensure that they are seated at 1:30.

21 Thanks to the Tech Panel, thanks to the parties, thanks
22 to the witnesses, and thanks to the Board for all the work. We're
23 adjourned.

24 (Whereupon, at 11:59 a.m., a lunch recess was taken.)

25

26

A F T E R N O O N S E S S I O N

(1:29 p.m.)

1
2
3 CHAIRMAN HART: Good afternoon. We'll call the meeting
4 to order. Welcome to the second afternoon of the second day of
5 the WMATA investigative hearing.

6 Before we start, I would like to recognize the presence
7 of the Honorable Therese McMillan, Acting Administrator of the
8 Federal Transit Administration. And thank you for being here and
9 thank you for all the help that we've gotten from FTA in the
10 process of this investigation. I appreciate that.

11 Dr. Poland, can you please introduce the fourth panel?

12 DR. POLAND: Thank you, Chairman Hart.

13 Before I introduce the fourth panel, I've been told that
14 WMATA's disciplinary guidelines matrix, that there are multiple
15 matrices. We currently have the operations matrix, but I'm told
16 that there's also ones for bus, rail, systems, operations, and
17 possibly more. So I would like to request from WMATA that we be
18 provided all of these disciplinary matrices so that we can enter
19 them into the docket. Okay, WMATA has nodded their head, so that
20 I will take as an acceptance.

21 MR. DOUGHTERY: We will do that.

22 DR. POLAND: Thank you.

23 Now, to introduce the fourth panel. Chairman Hart, the
24 fourth and last panel of this hearing will address the Federal
25 Transit Administration, or FTA, and the Tri-State Oversight

1 Committee, or TOC's, efforts for public transportation safety.
2 The panel will focus on state oversight of rail transit, along
3 with oversight efforts by WMATA and the TOC. In addition,
4 regulatory oversight requirements by the FTA and, in comparison,
5 the Federal Railroad Administration, or FRA, will be discussed.

6 Witness Panel 4 is composed of the following
7 individuals, from my left, nearest the Board members: Mr. Thomas
8 Littleton, Federal Transit Administration; Ms. Klara Baryshev,
9 Tri-State Oversight Committee; Mr. David Keay, Office of Rail
10 Regulation, United Kingdom; and Mr. Robert Lauby, Federal Railroad
11 Administration.

12 The NTSB Technical Panel is composed of, starting on my
13 left -- and originally we had planned to have Ms. Georgetta
14 Gregory as our panel chair, but she was not able to be with us
15 today, so Mr. Mark Jones will serve as the panel chair; Mr. Mike
16 Hiller and Dr. Carl Schultheisz.

17 I now ask that the witnesses please stand to be sworn.
18 Raise your right hand. Please answer by saying, I do.

19 (Witnesses sworn.)

20 DR. POLAND: Thank you. Please be seated.

21 Chairman Hart --

22 CHAIRMAN HART: Dr. Poland, as a housekeeping matter,
23 I'd like to know who is the spokesperson for the Tri-State
24 Oversight Committee.

25 MR. TEBO: Joseph Tebo, sir.

1 CHAIRMAN HART: Okay. And how do you spell your last
2 name, please?

3 MR. TEBO: T-e-b-o, Tom-Edward-Boy-ocean.

4 CHAIRMAN HART: Okay, thank you very much.

5 DR. POLAND: And we also have another substitute for the
6 Federal Transit Administration. We also have Ms. Kimberly Burtch,
7 who will act as the party spokesperson for the Federal Transit
8 Administration.

9 The witnesses have been prequalified and their
10 respective experience and qualifications appear in the docket as
11 exhibits in Group B.

12 As a reminder to the witnesses, please push the
13 microphone button to talk and then push the button again when
14 finished. And please also answer the questions factually and
15 avoid analysis.

16 I now turn the questioning over to Mr. Mark Jones.

17 MR. JONES: Good afternoon, everyone. We're going to
18 start out by exploring the FTA oversight of rail transit systems,
19 and I'd like to turn the questioning over to Mr. Mike Hiller at
20 this time.

21 MR. HILLER: Thank you, Mr. Jones.

22 Good afternoon, Mr. Littleton. I understand you've
23 prepared a brief presentation that will explain FTA's role in
24 state safety oversight. We've allowed 3 minutes for your
25 presentation. Can you please begin?

1 MR. LITTLETON: Thank you. If you'll call up the
2 slides.

3 Chairman Hart, Vice Chairman Dinh-Zarr, Members of the
4 Board and the NTSB staff, I really want to convey my appreciation
5 for the opportunity to talk today about state safety oversight for
6 rail transit. Please be assured that the highest priority of the
7 Federal Transit Administration is the safety of transit riders and
8 workers nationwide. Every transit passenger deserves a safe ride
9 and every transit worker deserves a safe workplace.

10 To set the stage for our discussion, I will provide a
11 brief 3-minute review of the history of state safety oversight.

12 To frame our discussion, it's important to remember that
13 49 C.F.R. Part 659 is the current law of the land for state safety
14 oversight, and that the state safety oversight agencies hold
15 responsibility for safety of their rail transit systems.

16 The journey to Part 659 began in 1991 with the passage
17 of the Intermodal Surface Transportation Efficiency Act, or ISTEA,
18 requiring states with rail transit systems not otherwise subject
19 to Federal Railroad Administration safety jurisdiction, to
20 establish state safety oversight agencies, or SSOAs. Please note,
21 this oversight authority began as an unfunded mandate to the
22 states.

23 Four years later, the FTA issued a final rule for state
24 safety oversight, more commonly known as Part 659, which required
25 every SSOA to set a safety program standard for rail transit

1 systems within its jurisdiction. The rule directed SSOAs to
2 conduct on-site reviews of each rail transit system and also
3 required SSOAs to approve corrective action plans and to
4 investigate accidents and hazardous conditions.

5 The FTA next amended the state safety oversight rule in
6 2005, making hazard identification and resolution a required
7 procedure. The FTA also established a new set of minimum
8 requirements for corrective action plans and set requirements for
9 accident notification.

10 Over the next several years, a number of serious rail
11 transit accidents occurred at major transit systems, including the
12 Fort Totten mishap at WMATA. These serious accidents sparked
13 concern in Congress and with the Administration and prompted the
14 first-ever transit safety proposal. The end result became the
15 safety authority contained in the Moving Ahead for Progress in the
16 21st Century, or MAP-21, Act passed in July of 2012.

17 This next slide shows the current relationship between
18 the FTA and the state safety oversight agencies under 659. Note
19 that it includes periodic reviews, annual reporting requirements,
20 and also a partnership with the SSOAs for safety. Additionally,
21 it gives the FTA the authority to withhold funds if an SSOA is
22 noncompliant.

23 Slide 4 shows the state safety oversight requirements
24 mandated under MAP-21, which include SSOA independence in
25 financing, investigation authority and enforcement authority. Of

1 the 30 states subject to MAP-21 requirements, 28 are in good
2 standing to complete grant applications, including the Tri-State
3 Oversight Committee, or TOC.

4 MR. HILLER: Mr. Littleton, you have 30 seconds.

5 MR. LITTLETON: Thank you.

6 Slide 5 shows the specific details of the state safety
7 oversight grant program, which provides \$58 million in formula
8 program funds. And if you recall, it was previously noted that
9 the other guidance on SSOAs was an unfunded mandate to the states,
10 something that MAP-21 specifically corrected to ensure that SSOAs
11 could properly organize, hire, train, and equip for their safety
12 mission. To be eligible to receive these funds, states must meet
13 MAP-21 requirements for having an approved certified work plan.
14 Currently 17 states have been awarded grants.

15 This last slide shows the progress we are making in
16 implementing our MAP-21 authority. In the year ahead, the FTA
17 expects to issue notices of proposed rulemaking for a national
18 safety program, a transit agency safety plan, a safety training
19 program, a national transit asset management program. We
20 currently have out in NPRM format a bus testing program, and we
21 have just closed the NPRM period for the state safety oversight
22 program rule.

23 Chairman Hart, Vice Chairman Dinh-Zarr, members and
24 staff, I really do appreciate the time and the opportunity today
25 and I look forward to answering your questions.

1 MR. HILLER: Thank you, Mr. Littleton. This first
2 question is going to refer to Exhibit 25. The Moving Ahead for
3 Progress in the 21st Century, or the MAP-21, took effect on
4 October 1st, 2012. MAP-21 requires that the Secretary of
5 Transportation create and implement a National Public
6 Transportation Safety Plan to improve safety of all public
7 transportation systems.

8 In summary, the required contents of this plan include
9 safety performance criteria for all modes of public
10 transportation; the definition of the term "state of good repair";
11 minimum safety performance standards for public transportation
12 vehicles used in revenue operations; and take into consideration
13 relevant recommendations of the NTSB and recommendations of and
14 best practices developed by the public transportation industry.

15 My question to you, Mr. Littleton, is has the FTA
16 established safety performance criteria for all modes of public
17 transportation, defined the term "state of good repair," or
18 established minimum safety performance standards for public
19 transportation vehicles used in revenue operations?

20 MR. LITTLETON: If you could repeat that list again?
21 I'm still writing.

22 MR. HILLER: That would be safety performance criteria
23 for all modes of public transportation; the definition of the term
24 "state of good repair"; minimum safety performance standards for
25 public transportation vehicles used in revenue operations;

1 consider relevant recommendations of the NTSB and recommendations
2 and best practices developed by industry.

3 MR. LITTLETON: Well, thank you very much. That is a
4 pretty tasty and meaty question. I'll start at the top there.

5 Your reference that you read out of there from 49
6 C.F.R., it's Chapter 53, 5329(b), and it absolutely is the
7 foundation of the rulemaking that we're pursuing right now.

8 As far as the reference to safety -- state of good
9 repair, we do have a definition of that. You'll find it
10 eventually -- the primary definition will be in our transit asset
11 management rule when that comes out. One of the things that was a
12 real trick, given the variety of rulemakings that we have
13 underway, is to make sure that we had a good level of consistency
14 across those. And we paid a lot of attention to that, especially
15 with things like state of good repair.

16 As far as the safety performance criteria and also the
17 references to minimum vehicle performance standards, those are
18 absolutely things that we're pursuing. They're part of our
19 rulemaking efforts. You'll see those come out in NPRM format in
20 the months to come. It's not really appropriate, in this format,
21 to talk about the deliberative efforts that we have underway.

22 And then also just to address the issue of industry
23 standards and NTSB recommendations, I can tell you that they were
24 absolutely cornerstones of our efforts. One of the things that we
25 recognize is that the efforts of the NTSB over the years were of

1 great value for the administration to establish the new safety
2 authorities that we have under MAP-21, and we look at that
3 partnership and recognize your expertise in that area. And we
4 absolutely do value your comments and we include those where
5 appropriate in our rulemaking.

6 MR. HILLER: Thank you for that answer. What does the
7 FTA consider safety performance criteria to be?

8 MR. LITTLETON: Again, that is an issue of great
9 deliberation. You know, when we talk about safety performance
10 criteria and performance measures, we exist right now over top of
11 a teeter-totter, if you will. On the one hand, there are a lot of
12 answers to that. We can be very specific; it can be broad and
13 encompassing. Recognize, as you brought up, that we're not just
14 talking about rail here. We're talking about bus, trolley cars,
15 heritage cars, you know, monorails, vertical lift systems, and
16 ferry boats on non-navigable systems of water, which is one of my
17 favorites. So the point is, is that as we consider vehicle
18 performance standards, it's not one immediate answer to that
19 problem.

20 The other thing that we have to weigh it against is the
21 timeliness of getting these rules out. One of the biggest things
22 that we need to do is establish a safety regulatory framework to
23 be able to begin fully and effectively employing the authorities
24 we have under MAP-21.

25 So the balance -- and this is the reason I won't give

1 you any specific answers to that. The balance is, is that we have
2 to make sure that we include enough that it is a valuable rule,
3 but we don't spend so much time tracking down all of the answers
4 for every possible performance criteria at this point, that we bog
5 the rulemaking down to the point that we don't get it out in a
6 timely manner.

7 MR. HILLER: Thank you for that answer.

8 This next question will refer to Exhibit 35, page 2, and
9 the third paragraph. In NTSB's comment letter to FTA's October
10 2013 advance notice of proposed rulemaking, the National Public
11 Transportation Safety Plan, specific to performance criteria, the
12 NTSB said performance criteria should be developed that encompass
13 right-of-way, bridges, signals, and all critical infrastructure.
14 These criteria should include metrics for inspection and
15 preventative maintenance that are linked to the transit asset
16 management plan.

17 My question, Mr. Littleton: Does the FTA intend to
18 propose national criteria establishing mandatory performance
19 requirements that will include the right-of-way, bridges, signal,
20 and all critical infrastructure?

21 MR. LITTLETON: The FTA intends to make sure that its
22 performance criteria meets the letter of the statute. And really,
23 I don't think it's appropriate again to talk in more detail about
24 the contents of rulemakings that are deliberative at this time.

25 MR. HILLER: Does the FTA currently have the resources

1 to implement MAP-21?

2 MR. LITTLETON: You know, I really thank you for that
3 question. That's really a very important one to recognize. It's
4 amazing the progress we've made. When I came on board almost 21
5 months ago, we had six employees at that time working on safety
6 and we have grown by more than 600% in the months I've been there.
7 The amount of effort has been absolutely phenomenal.

8 But when we talk about resources, you know, obviously
9 like everybody else, I always say more is better. And we would
10 love to have that. But I want to, before I proceed, underscore
11 that the FTA will always do the best job it can with the resources
12 it has available, whether that's a cornucopia or just a thimble
13 full.

14 We do know that the administration is cognizant of our
15 concerns. The President's budget proposal includes the request
16 for additional increased manning, a number of FTEs, and that is an
17 appropriate number to be able to make our requirements. It also
18 includes an appropriate administrative budget to make sure that we
19 have the resources to carry out our programs.

20 Additionally, the administration has put out the Grow
21 America Act as a proposal for authorization. It adds a number of
22 the authorities that we really do need to make sure that we can
23 flesh out our authorities under MAP-21. You may recall that
24 MAP-21 did not include everything the administration originally
25 proposed, and a lot of those have found a way back into Grow

1 America, specifically the ability of some of these states who have
2 a small operator to opt out of their role as an SSO and allow us
3 to take that.

4 The other modal administrations have FOIA data
5 protections which we are not afforded at this time. And it's
6 certainly very important for us to get those so that we can
7 collect safety data and be able to give people reasonable
8 assurances about how that data will be accessed.

9 We also are looking to have the authority to issue
10 emergency directives as part of Grow America, which is something
11 that we miss right now out of our current statutory guarantees.
12 And then, finally, it gives us stronger enforcement authorities in
13 the way of criminal and civil penalties, which are an important
14 part of our enforcement portfolio.

15 And when you talk about resources, I would tell you
16 that, you know, when you think about the number of people we have,
17 the amount of workload we have, it's really amazing what people
18 have done. Our efforts to move forward are always a balance, and
19 if you think about it, the same people who have to do all the
20 rulemaking and all of the work that's associated with that, are
21 the ones who have conducted two CTA investigations and
22 participated in WMATA events and BART. And, quite frankly, to be
23 honest, if this mishap that we're sitting here today talking about
24 had occurred somewhere else other than our own backyard, the
25 amount of support that the FTA would have been able to give to the

1 NTSB would have been significantly decreased just because we would
2 not have had the ability to take the expertise we have and to
3 launch it across the country to another location.

4 MR. HILLER: I really thank you for that answer. Let's
5 talk a little bit about safety data. Does the FTA maintain a
6 database of accidents and incidents that include causal
7 information?

8 MR. LITTLETON: There is a database that we have, called
9 the National Transit Database, and there's a lot of confusion
10 sometimes about what the National Transit Database does for us.
11 Recognize that the National Transit Database, which we call the
12 NTD -- the NTD was created for a different set of purposes. It
13 was not designed to be a safety database and to provide safety
14 information for safety purposes. It's really aimed at being a
15 policy and budget reporting tool, and that's the information it
16 collects.

17 One of the biggest issues that we have on the data front
18 with that, is that while SSOAs and properties comply with the
19 requirements for data reporting to the NTD, again, it's not meant
20 to be a real-time system. In fact, a lot of the information
21 doesn't have to be reported for but annually. And I don't need to
22 tell you that it's hard to do safety with a year of latency in the
23 information that you have available to you.

24 MR. HILLER: Thank you. So does the FTA collect
25 statistics on smoke and fire incidents nationally?

1 MR. LITTLETON: We do collect some level of data on
2 that.

3 MR. HILLER: Would you mind submitting that data for the
4 record?

5 MR. LITTLETON: Sure, we'll get that to you.

6 MR. HILLER: Okay.

7 DR. POLAND: Just as a clarification. Would there be a
8 title that would be associated with that data report?

9 MR. HILLER: Excuse me, safety statistics on smoke and
10 fire incidents nationally from the FTA.

11 DR. POLAND: And is there a year to it or is it a multi-
12 year report?

13 MR. LITTLETON: No, ma'am. We actually will have to go
14 and query the database to produce the information and get that to
15 you.

16 DR. POLAND: Is there a certain year that you're looking
17 for or is there --

18 MR. HILLER: I would say 5 years would be appropriate.

19 MR. LITTLETON: We can do it.

20 DR. POLAND: Thank you.

21 MR. HILLER: Okay. In preparation of this hearing, NTSB
22 interviewed FTA staff. When asked about the use of transportation
23 safety statistics in support of any FTA program, FTA staff stated
24 that the information received is not adequate to allow it. Would
25 you agree with that statement?

1 MR. LITTLETON: Absolutely. As I referenced earlier,
2 the database of information we collect right now is not intended
3 to be a safety database. It's for other purposes. And that's one
4 of the things that we -- one of the many items that we have to
5 find a way to build as an effective database. As you know, the
6 intent of the FTA is to introduce safety management systems as the
7 management standard across the industry, not only for properties,
8 but for the state safety oversight agencies and for the FTA
9 itself.

10 And SMS, one of the beauties of it -- and I'd like to,
11 you know, discourse for a second. We're not inventing anything
12 new by putting SMS into the system. Safety management systems,
13 SMS, is one of the most widely used management systems. It was
14 pioneered in aviation. It's been used effectively in the trucking
15 industry, the mining industry, the petroleum industry. And so
16 we're not really venturing into completely new ground there. And
17 the really nice thing about SMS is that it is data driven. If you
18 have effective data, then you have the ability to assess risk in a
19 scientific and repeatable fashion and use that as the basis for
20 your risk assessment and then your mitigations.

21 MR. HILLER: So my next question is going to refer to
22 your report. This is the FTA's final report on the safety
23 management inspection of WMATA, and on page 35 and 36, it showed
24 13 rail traffic control errors were miscommunications between rail
25 traffic controllers and a train operator that resulted in trains

1 being directed into work zones, through red signals, or where
2 power was unintentionally restored in a work zone, between March
3 of 2012 and December of 2014. Why didn't the FTA initiate an SMI,
4 or a safety management inspection, of WMATA based on this
5 statistic?

6 MR. LITTLETON: Well, to begin with, that information
7 was gathered during the SMI that we undertook as a result of this
8 accident. The other thing, too, is that realize, again, we're
9 venturing into our new full authority. Up to this point the FTA
10 did not have the resources, and really, not into the far distant
11 future, didn't have the regulatory authority to do these type of
12 things.

13 So now under 5329(f) we have a variety of things that we
14 can do and one of them is to inspect. And so this was a wonderful
15 opportunity for us to be able to step out. WMATA was the first
16 safety management inspection ever conducted by the Federal Transit
17 Administration and it was a very wide net. You know, as the NTSB
18 conducts its investigation, it is conducted in a more narrow
19 sliced look at an individual accident and to determine that
20 probable cause.

21 The FTA launched this SMI in response to the accident.
22 It's important to note that there was absolutely no crossing of
23 the streams of information. Those of us that were involved in the
24 accident investigation were not the ones who conducted the safety
25 management inspection. And the safety management inspection cast

1 a very wide net. We weren't trying to just determine what
2 happened with this arcing incident. We were trying to take a look
3 at the broader culture and status of safety inside of WMATA. It
4 included a safety gap analysis, a separate document, as a lead
5 into that and part of our long-term work with WMATA to improve
6 their safety culture. And then you also have all of the stuff we
7 looked at in our --

8 MR. HILLER: Tom, Tom, I'm going to have to -- hopefully
9 we'll get a second round to follow up on this. I'm starting to
10 get into some of my other panel members' time. So I really
11 appreciate your responses. I'm going to hand this off to
12 Dr. Schultheisz.

13 MR. LITTLETON: Thank you very much.

14 MR. HILLER: Thank you, sir.

15 DR. SCHULTHEISZ: Thank you. My questions will be
16 directed to Ms. Baryshev of the Tri-State Oversight Committee, or
17 TOC. I understand that you have an opening statement prepared,
18 which we've placed in the docket for this hearing.

19 MS. BARYSHEV: Yes.

20 DR. SCHULTHEISZ: We have 3 minutes set aside for you to
21 read from your opening statement. Please proceed.

22 MS. BARYSHEV: Thank you, sir.

23 Chairman Hart and Members of the Board, thank you for
24 inviting TOC to this hearing. I'm chair of the Tri-State
25 Oversight Committee at this time. The TOC is the FTA-mandated

1 state safety oversight agency for the WMATA Metrorail system. The
2 TOC is independent of WMATA and is not financially or legally
3 dependent on WMATA in any way.

4 The TOC is comprised of representatives from the three
5 jurisdictions in which WMATA operates: the District of Columbia,
6 Maryland, and Virginia. Each jurisdiction assigns one full-time
7 TOC member and each of these full-time members have Metrorail
8 state safety oversight as their sole responsibility.

9 The TOC also includes a policy committee. The policy
10 committee monitors high-profile safety issues and serves as a
11 liaison to TOC executive committee. The TOC executive committee
12 comprises of the deputy director of the District of Columbia
13 Department of Transportation and the secretaries of transportation
14 for Maryland and Virginia.

15 The TOC's primary responsibility is to conduct state
16 safety oversight under the Section 49 Code of Federal Regulations
17 Part 659. That approach is documented in its Program Standard and
18 Procedures.

19 TOC has taken actions to strengthen itself since the
20 2009 Fort Totten accident. First, TOC adopted its current
21 membership structure. The member jurisdictions also increased
22 funding for the TOC, which allows TOC to have consulting support.
23 An MOU between TOC and WMATA was signed that sets a clear line of
24 communication as well as conflict resolution methods. Per TOC's
25 Program Standard and Procedures, TOC chooses to do more than the

1 minimum requirement of Part 659.

2 TOC is very active in its oversight efforts at WMATA.
3 In addition to its regularly scheduled 3-year safety and security
4 reviews, the TOC also holds monthly meetings with WMATA senior
5 management and staff to discuss safety and security issues.

6 TOC's monitoring and oversight of WMATA system safety
7 efforts has prompted action by WMATA regarding on-board intercom
8 functionality, changes to the Silver Line extension designs,
9 administration of the red signal overrun study, and many other
10 safety-related efforts at Metrorail.

11 The MAP-21 legislation of 2012 mandates changes to the
12 structure and implementation of the SSO programs. TOC has
13 implemented an FTA-approved work plan that maps out actions that
14 we'll take to become a financially and legally independent entity
15 with enforcement power. The TOC jurisdictions are using the
16 expertise and support of COG in implementing the work plan. COG
17 is Council of Government.

18 We welcome the opportunity to appear before the Board
19 and look forward to working closely with the Board, FTA, and WMATA
20 to promote the safety and security of the Metrorail system.

21 Thank you.

22 DR. SCHULTHEISZ: Thank you very much. I would first
23 like to ask some questions about the hazard management program
24 described in the TOC's "Program Standard and Procedures". Does
25 the TOC keep a database of recurring hazards and evaluate hazard

1 trends in the WMATA system?

2 MS. BARYSHEV: The hazards are reported to TOC through
3 many channels. And first I would like to say that hazard
4 management is very important to WMATA and TOC, used in evaluating
5 -- report and evaluating, assessing and rectifying the hazards.
6 As I said, there are several reporting channels, and one of them,
7 accident/incident reporting for WMATA, certain accidents are
8 supposed to be reported per Part 659, prescribed by FTA
9 regulations. TOC is going further and increased the list of
10 required reported incidents. That is listed in Part 659. Also we
11 are in the system every day almost. We also receive command page,
12 communication page from MTPD that we are notified about everyday
13 hazards that are happening around the system.²

14 DR. SCHULTHEISZ: Okay, maybe I could ask some specific
15 questions. Does the TOC classify electrical arcing or fire or
16 smoke events as hazards that should be mitigated through WMATA's
17 hazard management plan?

18 MS. BARYSHEV: Yes, we do.

19 DR. SCHULTHEISZ: What about does the TOC track hazards
20 associated with the functioning of ventilation fans in the WMATA
21 system?

22 MS. BARYSHEV: With TOC-reported accidents and incidents
23 and hazard, through our database of incident and accidents, we do
24 not keep statistics. That is the responsibility of WMATA.

² The TOC requested a clarification to the transcript indicating that the TOC maintains a database of accidents and hazards.

1 DR. SCHULTHEISZ: Okay. Does the TOC track hazards
2 associated with problems with radio communications in the WMATA
3 system? Mr. Epler mentioned yesterday that the underground system
4 was difficult to maintain. Is that a hazard that the TOC should
5 be covering?

6 MS. BARYSHEV: As I said, statistics are not tracked by
7 TOC, but we also conduct -- the Tri-State Oversight Committee
8 conducts triennial reviews. And specifically to communications,
9 we just finished our triennial review of communication system and
10 there are many recommendations and findings that will make way in
11 the corrective action plans and that will be tracked to
12 completion.

13 DR. SCHULTHEISZ: Okay. So Exhibit 52 is WMATA
14 documentation that shows that in 2014 there were 69 reported fires
15 and 35 reported smoke events. Were all of those fire and smoke
16 events reported to the TOC?

17 MS. BARYSHEV: I know that most of the incidents are
18 reported to TOC. I cannot say for sure this number is exactly the
19 number that was reported.

20 DR. SCHULTHEISZ: Would you have records that would show
21 us how many?

22 MS. BARYSHEV: Yes, we can.

23 DR. SCHULTHEISZ: Could you provide the records --

24 MS. BARYSHEV: Sure.

25 DR. SCHULTHEISZ: -- for the fire and smoke events that

1 were reported --

2 MS. BARYSHEV: Sure.

3 DR. SCHULTHEISZ: -- in 2014?

4 MS. BARYSHEV: Sure.

5 DR. POLAND: So if I hear you correctly, that's going to
6 be a report from the TOC on fire and smoke reported events in 2014
7 within the WMATA system?

8 DR. SCHULTHEISZ: Right.

9 DR. POLAND: All right, we'll add that. Once we receive
10 that, we'll add that to the docket.

11 MS. BARYSHEV: Okay.

12 DR. POLAND: Thank you.

13 DR. SCHULTHEISZ: So if a fire or smoke event is
14 reported to the TOC as a hazard, how does the TOC respond?

15 MS. BARYSHEV: TOC is supposed to receive notification
16 from WMATA into our Program Standard and Procedures. Then
17 communication goes through the chair. That comes to me and I send
18 notification to members of TOC.

19 DR. SCHULTHEISZ: Okay.

20 MS. BARYSHEV: After the notification is sent, WMATA is
21 supposed to provide us with the -- if it's a reportable incident,
22 they provide us with a preliminary report and a final report.

23 DR. SCHULTHEISZ: And would they necessarily develop a
24 corrective action plan?

25 MS. BARYSHEV: If it's required. Not all incidents

1 require corrective actions, but if it's required, yes.

2 DR. SCHULTHEISZ: Okay. So next, I would like to ask
3 about the TOC's authority and resources. Does the TOC have enough
4 authority to carry out its mission?

5 MS. BARYSHEV: Enough?

6 DR. SCHULTHEISZ: Enough.

7 MS. BARYSHEV: As I said, TOC is acting under auspices
8 of Part 659, which does not provide enforcement power to TOC. We
9 implement both 659 requirements plus we have added requirements
10 that are listed in our Program Standard and Procedures.

11 DR. SCHULTHEISZ: Have there been situations where you
12 might have thought it would be useful to have enforcement powers?

13 MS. BARYSHEV: Many times.

14 DR. SCHULTHEISZ: Have you ever sought to get
15 enforcement powers?

16 MS. BARYSHEV: It's our understanding under MAP-21, but
17 we haven't.

18 DR. SCHULTHEISZ: Okay. How many TOC staff are there?

19 MS. BARYSHEV: As I said in my opening statement, we
20 have only three TOC members that do day-to-day work on overseeing
21 WMATA system. And plus, we have policy committee that is acting
22 on as-needed basis, part-time, and executive committee.

23 DR. SCHULTHEISZ: And so how is most of the work carried
24 out, then?

25 MS. BARYSHEV: We have meetings with WMATA. First of

1 all, our --

2 DR. SCHULTHEISZ: Well, let's say --

3 MS. BARYSHEV: -- interaction with WMATA is almost on a
4 daily basis.

5 DR. SCHULTHEISZ: Right, but let's say inspections or
6 reviews or things like that.

7 MS. BARYSHEV: Okay.

8 DR. SCHULTHEISZ: Is that done by consultants?

9 MS. BARYSHEV: No, it's done by TOC members and we have
10 a consultant's support for report preparation, scheduling and some
11 consultation. But TOC members participate in all activities that
12 TOC performs.

13 DR. SCHULTHEISZ: So do the TOC members actually do
14 physical inspections?

15 MS. BARYSHEV: When we do triennial audits, we have a
16 field portion of the audit. So at that time we do inspections.

17 DR. SCHULTHEISZ: Okay. Finally, I'd like to ask about
18 how the TOC's role will change under MAP-21. Does the TOC, as it
19 is currently configured, meet the requirements for a state safety
20 oversight authority under MAP-21?

21 MS. BARYSHEV: No. We applied to be certified as state
22 safety oversight agency in 2013 and we received a letter that TOC
23 cannot be certified. We did not receive an explanation why, but
24 we started working anyway and created the certification work plan
25 that was approved by FTA, and that we are working per this plan to

1 become compliant with MAP-21 requirements.

2 DR. SCHULTHEISZ: Do you feel you have a good
3 understanding of what needs to change for the TOC in order to
4 become certified under MAP-21?

5 MS. BARYSHEV: We are waiting for final rules where all
6 requirements will be described, and our understanding, it's coming
7 in 2016.

8 DR. SCHULTHEISZ: So you're waiting for the final rule
9 in 2016?

10 MS. BARYSHEV: Yeah, we have a work plan and right now
11 they're working with the Council of Government on the grant issue.
12 The Council of Government will receive funds from FTA to manage
13 our expenses. An MOU was signed between COG and TOC, how to --
14 you know, how they will work together. That's almost finished.
15 COG is working on last steps and applying for funds. And our work
16 plan is based on final rules, actually.

17 DR. SCHULTHEISZ: Okay. As I understand it, the TOC
18 staff don't actually work for TOC; is that correct?

19 MS. BARYSHEV: That is correct. All TOC members work
20 for three jurisdictions. I work for D.C. government. They have
21 Virginia representative and Maryland.

22 DR. SCHULTHEISZ: Okay. So going forward under MAP-21,
23 how would the TOC staffing be provided?

24 MS. BARYSHEV: TOC will be transformed in Metro Safety
25 Commission and that will be independent agency that will have

1 power of enforcement and it will have own staff, clerical staff.
2 It will be a freestanding agency with all, you know, rules that
3 apply to freestanding agencies. So at that time, members of
4 Safety Commission will work for Safety Commission, not for
5 jurisdictions.

6 DR. SCHULTHEISZ: Okay, thank you. I guess I'd like to
7 ask a couple more questions going back to the issue of hazard
8 management. Does the TOC use any kind of formal risk assessment
9 methods?

10 MS. BARYSHEV: When we feel that risk assessment needs
11 to be done -- hazard analysis mostly -- we ask WMATA to prepare a
12 hazard analysis. Risk we see when we do triennial reviews, and
13 when we see something that presents a risk, we issue findings.

14 DR. SCHULTHEISZ: Okay. How does the TOC measure its
15 effectiveness with regard to safety oversight? Are there metrics
16 that you use?

17 MS. BARYSHEV: Not that I know.

18 DR. SCHULTHEISZ: So how do you know if you're being
19 successful?

20 MS. BARYSHEV: We improved a lot since -- as I said in
21 my statement, since Fort Totten accident, when there was really no
22 such representation in TOC as we have now. We work with WMATA
23 closely. We have monthly meetings with WMATA. We established
24 monthly accident/incident investigation meetings. We established
25 monthly meetings on safety certification. We have monthly

1 meetings on corrective plans, CAPs. We attend WMATA's meetings,
2 such as executive committee meeting. We make presentation for
3 WMATA board safety committee. We really work closely on daily
4 almost basis with WMATA, and I think that does a much better job
5 than previously. It's not quantified, but I think it just shows
6 the results.

7 DR. SCHULTHEISZ: Okay, thank you. I'm going to refer
8 to a report that I think we need to add to the docket, which is a
9 report that was issued by the TOC on February 14th, 2014,
10 documenting a 3-year safety review of some system safety program
11 elements and those are Elements 1 through 10, 12, and 17. The
12 report covered August through October of 2013.

13 And in that report there were three findings of
14 noncompliance by WMATA related to hazards. One finding was that
15 the TOC was not receiving the required monthly hazard log. Has
16 that situation been corrected?

17 MS. BARYSHEV: Not yet.

18 DR. SCHULTHEISZ: I'm sorry?

19 MS. BARYSHEV: Not yet.

20 DR. SCHULTHEISZ: No.

21 MS. BARYSHEV: It's still the same.

22 DR. POLAND: Dr. Schultheisz, could you read that title
23 one more time so that we can make sure we have it in the -- in our
24 request to be added to the docket?

25 DR. SCHULTHEISZ: I believe the title is "Three-Year

1 Safety Review," and the subtitle refers to some system safety
2 program elements and there are some specific elements indicated, 1
3 through 10, 12, and 17.

4 DR. POLAND: And it's a TOC report?

5 DR. SCHULTHEISZ: Yes, it's on their website.

6 DR. POLAND: All right, thank you.

7 DR. SCHULTHEISZ: So if the situation hasn't been
8 corrected, what efforts are you making to correct that situation?

9 MS. BARYSHEV: We constantly communicate with WMATA. So
10 the report you mentioned, system safety triennial review we
11 conducted, as a result of findings, WMATA is supposed to issue
12 corrective action plans that are approved by TOC. Up to today we
13 have not received final version of corrective action plans. So
14 we're working with WMATA requesting to speed up this process.

15 DR. SCHULTHEISZ: Okay. I was going to ask if you could
16 say typically how many hazards do you normally see in a monthly
17 hazard log?

18 MS. BARYSHEV: That was one of the findings of that
19 report, that we do not receive actual hazard log.

20 DR. SCHULTHEISZ: Right, okay.

21 MS. BARYSHEV: The hazard log we started receiving has
22 not been modified or changed for several, I think, years. So it's
23 not what we requested, actually.

24 DR. SCHULTHEISZ: Okay. So I'll refer to one other
25 question, which is, a second finding from that report was that

1 hazardous conditions are not being reported through the hazard
2 management process to be analyzed systematically throughout the
3 agency. Has WMATA provided a corrective action plan to address
4 that finding?

5 MS. BARYSHEV: As I said, for that audit, we have not
6 received final version of corrective action plans.

7 DR. SCHULTHEISZ: Okay. Well, I mean, that report was
8 dated February 2014, right?

9 MS. BARYSHEV: Yes.

10 DR. SCHULTHEISZ: So it's more than a year old.

11 MS. BARYSHEV: Yes.

12 DR. SCHULTHEISZ: Okay. That's all the questions I
13 have. Thank you.

14 DR. POLAND: Dr. Schultheisz, Ms. Baryshev mentioned the
15 triennial review, Safety and Security of WMATA, a final report
16 that came out just recently. When I look at our docket page, it
17 looks like we have the report from 2010.

18 Ms. Baryshev, is there a more current version than the
19 2010 report for this triennial review?

20 MS. BARYSHEV: For the 2010, there was one report of
21 triennial review. Since then, TOC established continuous review
22 of WMATA system safety and emergency response. So we have so many
23 reports. The report that was quoted as system safety, we call it
24 elements. I forget what elements exactly. And it was done in
25 2013.

1 DR. POLAND: Could you please provide that report so
2 that we can add it to our docket? And can you repeat, is it a
3 triennial review, then, for that 2013 report?

4 MS. BARYSHEV: That is one of the triennial reviews. We
5 have so many triennial reviews. We review different departments
6 at different time.

7 DR. SCHULTHEISZ: Yeah, they've gone to a system whereby
8 they're doing their triennial review in pieces. And so I think
9 that's one of the pieces, is the report I had, which is part of
10 the 2013.

11 DR. POLAND: So just to be clear, is that something that
12 we already have in our docket or --

13 DR. SCHULTHEISZ: I don't think we have it in the
14 docket, but it's on their website and we can -- at least the piece
15 that I was referring to.

16 DR. POLAND: Oh, so that's one and the same. The same
17 report?

18 DR. SCHULTHEISZ: Yeah, I believe it is.

19 DR. POLAND: Okay, thank you.

20 MR. JONES: All right, thank you.

21 Mr. Lauby, if I could ask you some questions, please,
22 about the FRA. Could you please briefly describe how you develop
23 safety regulations and what staff you use to develop those?

24 MR. LAUBY: Yes, I'd be happy to answer that question.
25 We get ideas for safety regulation from various sources.

1 Sometimes it's a congressional mandate. Sometimes it's an NTSB
2 recommendation. Sometimes it's generated from our Railroad Safety
3 Advisory Committee, in that someone's identified an issue that
4 they feel needs to be regulated. After we identify the subject
5 area, we have different options on how we move forward. One way
6 that we could move forward is to include it in a Railroad Safety
7 Advisory Committee task statement, where we collect people from
8 labor and industry to come and talk about the proposed rule and
9 develop it.

10 And then once we have done that through a consensus
11 process, we go to a rulemaking procedure that's under the
12 Administrative Procedure Act. That requires that we publish the
13 draft rule in a notice of proposed rulemaking. As part of that,
14 we have to leave it open for comments from industry, and we also
15 have to justify the rule using a cost-benefit analysis. We get
16 those comments back. We review them, we analyze them, and then we
17 move forward on a final rule. We put a final rule in place with a
18 final cost-benefit analysis. And that's how it makes it into our
19 particular rulebook.

20 MR. JONES: Thank you. Does FRA conduct routine
21 inspections and audits of railroads?

22 MR. LAUBY: Yes, we do. We have quite a few different
23 tools that we use with our inspectors. And we have about 365
24 inspectors when we're fully staffed, and about 650 people in the
25 entire Office of Railroad Safety. But those 365 inspectors are in

1 five different disciplines: track, motive power and equipment,
2 signals, operations, and hazardous material. And they go out and
3 they do independent inspections of railroads, not to basically do
4 track inspections or equipment inspections, but to confirm that
5 the railroad has done that and they've done it correctly.

6 MR. JONES: Okay. Could you please briefly describe the
7 technical requirements to be an inspector?

8 MR. LAUBY: Well, we get inspectors from a lot of
9 sources. Some of them come from the railroad. We also have an
10 intern program and a trainee program where we get folks that don't
11 have a lot of railroad experience. Once they come in the door, we
12 assess them, assess their skills. Obviously if they've worked on
13 the railroad for many years and have skills that they bring with
14 them, they need less training than someone who's coming in to a
15 training program. So we assess those skills.

16 We basically develop a training plan for them that will
17 give them the different skills that they need to be successful as
18 an FRA inspector. We will train them primarily in-house with our
19 training group. They will develop -- they have developed courses.
20 They'll apply those to that person until they get to the point
21 where they're comfortable. There's also an on-the-job training
22 segment where they will go out with other inspectors and our
23 specialists to make sure that they know what they're doing and
24 they're able to successfully inspect equipment and find the FRA
25 requirements as needed.

1 So once we do that and we have them fully trained, that
2 we've done on-the-job training with them, they talk to a regional
3 administrator in whatever region they're in and they become
4 certified as an inspector in a particular discipline. It can take
5 anywhere from a month for somebody who's really skilled in
6 railroad -- and the month is primarily taken to provide
7 information on what types of paperwork need to be done to file
8 violations and things like that -- or it can take up to about 2
9 years, which is what we do with our trainees that don't have any
10 railroad experience.

11 MR. JONES: All right, thank you. If there was a
12 systemic problem on a railroad dealing with one of the areas that
13 you regulate, what options would the FRA have to -- enforcement
14 options?

15 MR. LAUBY: Well, we have quite a few enforcement
16 options. We start at the top. If it's an issue that we think can
17 cause loss of life or injury, we can take an emergency order
18 action. An emergency order action has the force of regulation.
19 The advantage of this is we can put it in place in a very short
20 time, meaning, as long as it takes to write it and publish it. So
21 in a matter of days we can issue an emergency order that requests
22 a railroad to do something to take care of that particular issue.
23 We don't use it very often and it has to be focused, it has to be
24 very focused on a particular railroad and a particular problem,
25 because what we do is we bypass all of the public comment

1 requirements of the APA. So it's a real shortcut, but we use it
2 once in a while.

3 We have other options, too. We can go ahead and we can
4 do compliance orders with a railroad that's in violation of our
5 regulations. We use that once in a while. Often we use
6 compliance agreements, which means we go in and we talk to the
7 railroad and we say we've identified a problem; it needs to be
8 cleaned up. We can charge you with thousands of dollars in fines
9 right now, but we'll hold it in abeyance if you come and tell us
10 how you're going to fix it and meet a schedule. So we kind of
11 make a deal with the railroads to get them into compliance as
12 quickly as possible. So we can do that.

13 And as we go down the list, we can also do civil
14 penalties. If we have examples of negligence, we can do
15 individual liability or take other civil actions against a
16 railroad in partnership with the Department of Justice.

17 And then, finally, if we find violations and the
18 violations are not considered serious and not the fault of the
19 railroad, we can also take those violations and put them in
20 abeyance and use enforcement discretion while the railroad works
21 to get into compliance.

22 But the important point here is all of our compliance
23 tools are used to get the railroad in compliance with regulations
24 as quickly as possible.

25 MR. JONES: All right, thanks. A few yes or no

1 questions here for the interest of time. Does the FRA investigate
2 significant railroad accidents?

3 MR. LAUBY: Yes.

4 MR. JONES: And do you develop reports of those
5 investigations?

6 MR. LAUBY: Yes.

7 MR. JONES: And does the FRA have a requirement for
8 railroads to report other significant safety issues such as false
9 proceed signal indications?

10 MR. LAUBY: Yes.

11 MR. JONES: And do you normally send out an FRA
12 inspector to investigate those reports?

13 MR. LAUBY: We often do if it's curious. If we don't
14 have the full story, we try to make sure that we understand the
15 incident, and if we have questions, we will certainly contact the
16 railroad and find out.

17 MR. JONES: Okay. And does the FRA require that
18 railroads report accidents?

19 MR. LAUBY: Would you repeat that?

20 MR. JONES: Do you require that railroads report
21 accidents?

22 MR. LAUBY: Yes, we do.

23 MR. JONES: And do you maintain a database of inspection
24 results and of accidents that are reported?

25 MR. LAUBY: Yes, we maintain a database on all the

1 accidents that are reported. We track those accidents and we also
2 maintain databases on our inspection results, violations, and
3 other issues that may occur on a railroad.

4 MR. JONES: Okay. And do you use that information as
5 part of the development of your national inspection plan?

6 MR. LAUBY: We use the data for all types of things. We
7 use it for a national inspection plan, which basically helps us
8 focus where we need to go to find safety issues. We use it to
9 support our new regulations. We have to make the cost-benefit
10 analysis, so we pull that statistic to show the effect that the
11 elimination of a particular hazard would have on overall safety.
12 We use it too in our staffing allocation model to actually
13 determine how many track inspectors we need versus how many HAZMAT
14 inspectors we need and where we need them in the country. So we
15 use it in many, many different ways.

16 MR. JONES: All right, thank you. I've got some more
17 questions, in fact, maybe later if we have time.

18 MR. LAUBY: Okay.

19 MR. JONES: But I'd like to move to Mr. Keay for some
20 questions. First of all, welcome to the U.S., Mr. Keay. And I'd
21 like to get an overview, if you would, of the Office of Rail
22 Regulation's approach to rail safety in Great Britain. And I
23 understand you do have a presentation for us, a 5-minute
24 presentation.

25 MR. KEAY: I do indeed, Mark.

1 Mr. Chairman, members of the Board, thank you very much
2 for inviting us over here. And I think we can add to the value.
3 I've got a short presentation which outlines how we regulate
4 railways and other guided transport in the United Kingdom.

5 I'm from the Office of Rail Regulation. I'm from the
6 inspectorate side of it. We're actually the independent safety
7 and economic regulator for the main line railway of Great Britain.
8 That's the bit that's operated by Network Rail. But from the
9 safety side of the ORR, we regulate all forms of guided transport.
10 So we've got the metros, light railways, tramways, and we've got
11 211 heritage railways which we regulate.

12 Set up in '94, and EU, the European Union, set out some
13 legislation which brought us into being. We're independent of
14 ministerial control day by day, but our public interest objectives
15 are set by acts of parliament.

16 We're lead by a board. It's currently 11 members, CEO
17 and executive directors, and the chief inspector, the officer of
18 railways, is also on the board as well.

19 We're subject to parliamentary scrutiny, which we get
20 from time to time, but our decisions can only be challenged in the
21 court of law by a judicial review.

22 We're funded by the railway industry. We typically get
23 around about \$25 million, which funds our existence.

24 We've got 110 staff in the safety inspectorate and 50
25 for line inspectors. And there are 30 of them looking after

1 Network Rail and the main line railway. The rest are looking
2 after the other railways of the United Kingdom.

3 Our vision is zero fatalities and an ever-decreasing
4 health and safety risk. We're looking for excellence in both
5 asset management, in operations, and in health and safety
6 management and especially culture. And the result of that is
7 management capabilities improved and so on. And we reduced the
8 likelihood of any catastrophic incidents.

9 We check compliance. And what we're pushing for is
10 excellence in management. We recognize management is key,
11 leadership is key. And we check legal compliance, that everybody
12 is meeting the bar of legal compliance. But we push them beyond
13 legal compliance. We push them for excellence in management. And
14 if you've got excellence in management, you've got more likelihood
15 of compliance every day, and you've got more likelihood that
16 you're controlling the risk properly.

17 And we've got a set of tools that we use and the
18 inspectors use. One is the management maturity model, where we
19 look at the capability and maturity of the management systems. We
20 look at management holistically. We don't home in, in sort of
21 looking at specifically safety management. We look across the
22 piece. So if you've got good management, you've got good safety
23 management.

24 Our law comes from Europe. The primary safety directive
25 set up the latest regulations that we work under. And we've also

1 got the Health and Safety Work Act, which is long established,
2 which sets out the principles of reasonable practicability.

3 In addition to legislation that we enforce on the guided
4 transport in the UK, on the main line railway and the metros,
5 we've also got a permissioning regime, which we issue certificates
6 for operation every 5 years, and that is to a common European
7 standard and we check that they're complying with the law with
8 that. And through our inspections, we check that they've got the
9 safety management system in place and all the elements within that
10 safety management system. And that scrutiny under the
11 permissioning regime targets our inspection for the next 5-year
12 cycle.

13 The railway in Great Britain has got two bodies very
14 similar to over here. There's ourselves, the ORR, the regulatory
15 body. We've also got the Rail Accident Investigation Branch,
16 which is very similar to the National Transportation Safety Board.
17 And we work together and we both independently investigate
18 accidents and incidents.

19 And in addition to that, we've got the Railway Safety
20 Standards Board as well. And they're the owners of the standards
21 for the railway, for the main line railway, and they look after
22 the safety statistics and they produce models on things like
23 precursor events, which we also take advantage of, which drives
24 where we target our resources.

25 We examine safety management systems in some detail. We

1 look for compliance with the law. We give a lot of guidance on
2 the law. We give a lot of guidance on engineering matters and
3 operational matters. In fact, we spend probably 75% of our time
4 giving guidance and advice.

5 And we benchmark people using our railway management
6 maturity model. And within that there are 26 elements of
7 management; as you would expect, leadership and all of those good
8 things, change management, and how good management is applied to
9 the railway. And there's a clear expectation in the United
10 Kingdom that they operate at excellent, and we drive them towards
11 that. And that's set out within our strategies.

12 When we're assessing safety performance, there's many
13 ways to assess it. You can look at the KPIs, you can look at
14 inspections and audits. But underpinning all of it, and what we
15 find to be the bedrock of safety, is culture. And we've got tools
16 where we analyze safety culture and that, to us, is a very, very
17 important facet of our work, is looking at the culture as well as
18 the governance and the safety management system.

19 We prioritize our work and this is based on what's
20 happening out there, what we've picked up, intelligence gain from
21 accidents and incidents, our confidence that the duty holder will
22 do what they say they're going to do, previous enforcement
23 history, any concerns that the government has or the public have,
24 and more importantly, how we can actually make a difference,
25 because we're there to make a difference. We're actually there to

1 stop the industry from failing. So we try and work as close as we
2 can with the industry to ensure they do not fail.

3 And the risk priorities link into our plans. We've got
4 a program and that's set out in a strategic document which we
5 review every 6 months.

6 We check safety is being managed properly, from top to
7 bottom, and we do that by inspection, by observation, and we do it
8 by audit. And we do proactive inspections and we do reactive
9 inspections. And we inspect when there's been complaints and we
10 inspect when there are accidents and incidents.

11 And the next slide just shows the continuum of
12 inspection to audit, whereby when we're inspecting, we're
13 observing, we're watching tasks, we're watching people on the
14 ground, we're looking for the cultural tanks. And then for audit,
15 we're looking for paperwork and discussing things with the staff.

16 But not only are we seeking improvement with the
17 industry, we're also driving ourselves for continuous improvement.
18 And we're regularly looking at our strategies and we identify what
19 impact we're having. We've got performance indicators. And we
20 sharpen our regulation by cross-audit with the other European
21 regulators. And our inspection quality is underpinned by a
22 competence management system that we drive our inspectors for
23 excellence.

24 MR. JONES: Thank you, Mr. Keay. I'm out of time. I
25 just have one quick question and hopefully in another round I'll

1 have some more. But in your presentation you mentioned that your
2 safety responsibilities include all railways, metros, and tramways
3 in Great Britain, and I'm just -- I want to clarify. Is there a
4 distinction in your approach to safety for these different
5 systems?

6 MR. KEAY: No, none whatsoever. The laws of physics --
7 you know, energy is the same wherever you are. A steel wheel or a
8 steel rail has the capability of coming off whatever it is, if
9 it's not properly managed. So we apply safety legislation
10 uniformly across all forms of guided transport.

11 MR. JONES: Okay, thank you very much.

12 And, Dr. Poland, this concludes Panel 4's round.

13 DR. POLAND: Chairman Hart, that concludes the technical
14 panelists' questions for Panel 4.

15 CHAIRMAN HART: Thank you, Dr. Poland.

16 We will now take a break and return at 3:00, by that
17 clock. And I ask that the witnesses come back a few minutes
18 earlier in order to be seated.

19 Thank you.

20 (Off the record at 2:35 p.m.)

21 (On the record at 2:59 p.m.)

22 CHAIRMAN HART: We are now in session again. Good
23 afternoon and welcome back. Now it's time for the parties to
24 question the witnesses. We're going to do it in the order that
25 the Federal Transit Administration will go last. The Tri-State

1 Oversight Committee will go next to last. And then, other than
2 that, we'll start with D.C. and go counterclockwise around the
3 table.

4 So starting with the District of Columbia, Mr. Geldart,
5 do you have any questions for this witness?

6 MR. GELDART: Thank you, Chairman Hart.

7 CHAIRMAN HART: These witnesses.

8 MR. GELDART: I do. And the questions that I have are
9 directed towards the TOC. Has the TOC been involved -- under its
10 role with the safety oversight, has it been involved with any of
11 the interoperability radio issues with WMATA? Any kind of audits
12 or anything like that? Has the TOC done any work around the
13 communications and interoperability issues with WMATA?

14 MS. BARYSHEV: The short answer is yes. We just
15 recently completed a triennial review of communication system and
16 radio and we have few findings as a result of this review.

17 MR. GELDART: Okay.

18 MS. BARYSHEV: And also if I may add, we were aware,
19 before our review, about problems with radios and we brought this
20 to attention of WMATA's management and discussed it at several
21 meetings, monthly meetings TOC has with WMATA.

22 MR. GELDART: Okay, thank you. On the day of the
23 incident, was the TOC notified? And what action did the TOC take
24 the day of this incident?

25 MS. BARYSHEV: On the day of the incident, we were

1 notified first time -- I think it's at 4:10 p.m. The information
2 was that there were fires at Mount Vernon Square Station, Gallery
3 Place Station, and I believe L'Enfant Plaza, like a rash of fires.
4 And then shortly, maybe in 20 minutes, we received another
5 notification, there was a fatality. So that changed the TOC's
6 response completely. We got on the phone together and discussed
7 it and we responded to the scene later.

8 MR. GELDART: So two follow-ups on that. One, how was
9 the TOC notified?

10 MS. BARYSHEV: By phone.

11 MR. GELDART: From?

12 MS. BARYSHEV: From WMATA.

13 MR. GELDART: Okay. And then the second one, what
14 actions did the TOC take once -- you said it changed once there
15 was a fatality. What actions did the TOC take once --

16 MS. BARYSHEV: We will not respond if it's just fires on
17 the right-of-way. But when it's a fatality and we receive
18 information that people on the train are stuck in the tunnel, it
19 changes our response level.

20 MR. GELDART: And what is that response?

21 MS. BARYSHEV: We responded to the scene to see with our
22 own eyes and evaluate the situation, talk to WMATA. And since
23 NTSB was notified and was going to do the investigation, we joined
24 NTSB with this investigation. We didn't have our own
25 investigation.

1 MR. GELDART: Okay. So the TOC responded to the scene
2 on the day of the event during --

3 MS. BARYSHEV: Yes, we were there around 9:00 p.m.

4 MR. GELDART: Okay. And was the place of connection for
5 the TOC when you got there, is that the unified command?

6 MS. BARYSHEV: We met with NTSB. I don't think there
7 was a unified command at that time.

8 MR. GELDART: Okay.

9 MS. BARYSHEV: That was a little bit later. But NTSB
10 was still there and we went to the site with NTSB.

11 MR. GELDART: Okay, thank you.

12 I have no more questions, Chairman Hart. Thank you.

13 CHAIRMAN HART: Thank you, Mr. Geldart.

14 ATU 689, any questions?

15 MR. MADARAS: Yes, I do, Chairman Hart.

16 My question is for Ms. Baryshev. Would you be in
17 agreement to extend an invitation to Local 689 to participate in
18 the monthly TOC meeting with WMATA?

19 MS. BARYSHEV: Absolutely. Sure.

20 MR. MADARAS: Thank you. That's the only question I
21 had.

22 CHAIRMAN HART: Thank you, Mr. Madaras.

23 Mr. Hudson, IFF Local 36?

24 MR. HUDSON: No questions, thank you.

25 CHAIRMAN HART: Okay.

1 WMATA, Mr. Dougherty?

2 MR. DOUGHERTY: Thank you, Chairman Hart.

3 Yes, I do have a question in reference to an answer
4 earlier by Ms. Baryshev concerning the hazard management and I'm
5 looking at a report that actually -- this particular one is dated
6 May 1st, 2015. It was sent to the TOC for what is identified as
7 NC-2, which would be Noncompliance 2. It has the TOC was not
8 receiving a monthly log of hazards at the time of this review.
9 WMATA should continue to provide monthly hazard logs to the TOC.
10 WMATA should also note the monthly hazard log requirement in its
11 SSPP. WMATA to provide an updated SSPP 2014 at the time 2015 has
12 been approved or is just pending approval, including a monthly
13 hazard log requirement. Additionally, WMATA will provide 6
14 consecutive months, October 2013 to March 2014, of hazard logs to
15 the TOC. And this was closed -- completed 4/16/2014. Again, that
16 year was 2014. And it actually is noted, WMATA actions are
17 complete; documentation verified by TOC, 4/16/14.

18 Is that incorrect, Ms. Baryshev?

19 MS. BARYSHEV: There are two findings in that report.
20 First was that we don't receive the hazard log, and that was
21 closed because we did receive hazard logs, but they were not
22 adequate. And on face value, we receive reports every month, but
23 those reports never change. They are not adequate as we
24 understand hazard log. And the second finding is that not all
25 hazards are reported on hazard logs. So if you look at the hazard

1 logs provided to us, they haven't changed since a year ago or more
2 and it's supposed to be a living document.

3 DR. POLAND: Mr. Dougherty, I'm not clear if that
4 document, that report that you mentioned, is already in our
5 docket. I see that Mr. Brown is shaking his head no. Is that a
6 document that you could provide to us so that we could add it to
7 the exhibits in the docket?

8 MR. DOUGHERTY: Yes, ma'am, absolutely.

9 DR. POLAND: And it was dated May 1st, 2015, and it was
10 titled the NC-2 report?

11 MR. DOUGHERTY: What this is called is "WMATA Lists of
12 Corrective Action Plans for SSPP Element Audit (TOC) as of
13 5/1/2015."

14 DR. POLAND: Thank you.

15 MR. DOUGHERTY: And we're certainly happy to provide
16 that.

17 Does WMATA not provide, and has provided since June
18 2010, a monthly report of all corrective actions addressed to the
19 TOC executive committees, which would be the governor -- or the
20 Secretary of Transportation for the State of Maryland, Secretary
21 for the Commonwealth of Virginia, and the director for the
22 District of Columbia, that we copy the TOC committee, the TOC --
23 TRA online or TOC online, as well as we copy several members of
24 the FTA? Do you receive that report every month?

25 MS. BARYSHEV: Corrective action plan report?

1 MR. DOUGHERTY: Yes.

2 MS. BARYSHEV: Yes, we do receive it.

3 MR. DOUGHERTY: And does that not list every open
4 corrective action, and then we carry a month for that, after it's
5 closed, in that report?

6 MS. BARYSHEV: I think that report has most of the
7 corrective action plans. I have to verify if corrective actions
8 from the triennial audit are also included in that file.

9 MR. DOUGHERTY: Well, certainly, you know, if it's not,
10 I'd like to know that because certainly our goal is to keep that
11 report up and accurate every month that we have transmitted. And
12 to the best of my knowledge, WMATA has not missed a month nor have
13 we been late a month in sending that report.

14 MS. BARYSHEV: Corrective action plan?

15 MR. DOUGHERTY: Corrective action plan report.

16 MS. BARYSHEV: Not the hazard log, correct?

17 MR. DOUGHERTY: Correct.

18 MS. BARYSHEV: Okay.

19 MR. DOUGHERTY: I had another question directed to
20 Ms. Baryshev. What standards does the TOC hold WMATA to and where
21 are these -- you know, and are they written?

22 MS. BARYSHEV: I'm sorry, can you --

23 MR. DOUGHERTY: What standards does the TOC hold WMATA
24 to? Are those written down anywhere?

25 MS. BARYSHEV: Standards? Under auspice of 659 and our

1 program standard plan that's based on 659 with additional
2 requirements.

3 MR. DOUGHERTY: And is that detailed or is it more or
4 less generic as far as the requirements of what will be looked at
5 and actually compliance? Or are they findings of compliance as
6 well as findings of noncompliance, where the findings of
7 compliance -- where does that standard come from?

8 MS. BARYSHEV: Program standard plan and 659, WMATA is
9 supposed to have a system safety program plan and system emergency
10 preparedness plan that is reviewed and approved by TOC. So when
11 we do our triennial review, we measure it against these documents.

12 MR. DOUGHERTY: And is WMATA compliant with those
13 requirements for an SSPP and SEPP?

14 MS. BARYSHEV: When we do audit and we find in
15 compliance, we issue findings. So as you know, we do continuous
16 triennial audits. So there are several audit reports. Each
17 report has findings, each report for review. Certain elements of
18 the system safety program found -- there are 21 elements in the
19 system program, system safety program plan, and we audit them in
20 3-year cycle.

21 MR. DOUGHERTY: Okay, but WMATA submits the system
22 safety program plan for TOC's review every year and then TOC does
23 approve those plans, correct?

24 MS. BARYSHEV: Correct.

25 MR. DOUGHERTY: Okay.

1 CHAIRMAN HART: Mr. Dougherty, I think your time is up
2 for this round. We will have another round.

3 MR. DOUGHERTY: Thank you, sir.

4 CHAIRMAN HART: Thank you.

5 DR. POLAND: Chairman Hart, if I may interrupt?

6 CHAIRMAN HART: Yes.

7 DR. POLAND: Ms. Baryshev, could you please submit to
8 the NTSB the WMATA hazard logs and the corrective action reports
9 that were mentioned, for the last 5 years, please?

10 MS. BARYSHEV: Okay.

11 DR. POLAND: Thank you.

12 CHAIRMAN HART: Thank you.

13 Tri-State Oversight Committee, Mr. Tebo?

14 MR. TEBO: Thank you.

15 My question is for Ms. Baryshev. You mentioned the
16 system safety program plan and the safety emergency preparedness
17 plan. Those are two documents that are required for WMATA to hold
18 and publish?

19 MS. BARYSHEV: Yes.

20 MR. TEBO: Okay. And annually they submit those
21 documents to the TOC for review, correct?

22 MS. BARYSHEV: Correct.

23 MR. TEBO: How many elements are in the system safety
24 program plan?

25 MS. BARYSHEV: Twenty-one.

1 MR. TEBO: Prior to 2013, how did the TOC conduct its
2 triennial audit?

3 MS. BARYSHEV: Prior to 2013, triennial review was
4 conducted in one shot. All elements of system safety program plan
5 were audited in one review that lasted for several weeks. Since
6 2013 cycle -- new cycle started in 2013. So 2013, '14 and '15,
7 this is triennial cycle ongoing right now. Since 2013 we audited
8 system, WMATA system safety program plan, on continuous basis.
9 Different elements are audited during the cycle.

10 MR. TEBO: Okay. Would it be fair to say that we
11 attempt to do seven elements a year, on a 3-year running basis?

12 MS. BARYSHEV: Yes, some are even -- we try to do it
13 even during the cycle.

14 MR. TEBO: And therefore at any given time throughout
15 any year, WMATA is under some type of audit by the TOC, correct?

16 MS. BARYSHEV: Yes, continuously. We have a schedule
17 that we provide to WMATA ahead of time. We notify WMATA about
18 review 60 days ahead and we require documentation to be submitted
19 for our review in preparation for the audit. We go on site to
20 audit. We do field work and develop our report.

21 MR. TEBO: Based upon the findings of those audits --
22 let me strike that. Based upon the results of those audits, the
23 TOC will publish findings of noncompliance or compliance with
24 recommendations; is that correct?

25 MS. BARYSHEV: That is correct.

1 MR. TEBO: Findings of noncompliance are kind of self-
2 explanatory, that is, it does not comply with the SSPP as written
3 or the procedures as written; is that correct?

4 MS. BARYSHEV: That is correct.

5 MR. TEBO: So what would a finding of compliance with
6 recommendation be?

7 MS. BARYSHEV: Compliance with a recommendation, as an
8 oversight agency, as we talked, we measure WMATA against their
9 documentation and their policy and procedure. When TOC goes on
10 site and sees some risks, some hazard, that's not outlined in the
11 WMATA's documents, we issue compliance with recommendation. It's
12 something WMATA does not have to do for their documentation, but
13 it might be a risk hazard and it's a good thing to do. And that
14 is what we call compliance with recommendation.

15 For these compliances with a recommendation, WMATA can
16 accept as is, and issue a corrective action plan. Or if WMATA
17 decides that they don't do -- they don't need to do anything in
18 response to a certain compliance with recommendation, TOC requires
19 to develop hazard analysis and show that risk is really low and
20 maybe no actions are required.

21 MR. TEBO: Okay, thank you. In previous years, has the
22 TOC conducted or performed any special audits and studies in
23 response to special safety concerns identified at WMATA?

24 MS. BARYSHEV: Yes, we have conducted special studies on
25 intercom on the railcars and several others.

1 MR. TEBO: Was the ROCC, the Rail Operations Control
2 Center, one of those special studies that had been planned by the
3 TOC?

4 MS. BARYSHEV: That was in our plans and just before the
5 January 12th incident, we received -- we had some concerns and
6 that was one of our triennial reviews that we were planning to do.
7 But just before the accident happened, we received information
8 from, I would say, a whistleblower who came and met with us and
9 described a situation with ROCC. We decided that was enough
10 concerned information that we need to do a review and that would
11 be -- we almost started it, but then FTA announced their SMI and
12 we joined FTA and we postponed our review.

13 MR. TEBO: Okay, thank you. I believe I'm out of time.

14 CHAIRMAN HART: Thank you, Mr. Tebo.

15 Federal Transit Administration, Ms. Burtch?

16 MS. BURTCHE: Thank you. These questions are directed to
17 Mr. Littleton. Why did FTA reject TOC's initial certified work
18 plan?

19 MR. LITTLETON: Thank you. Yes, the original submittal
20 of a certified work plan by the TOC was rejected in October of
21 2013 because it didn't adequately define a legally recognizable
22 entity to meet the definition of a state safety oversight agency
23 in accordance with MAP-21.

24 MS. BURTCHE: And how could TOC meet the MAP-21
25 requirement?

1 MR. LITTLETON: It needed to be able to work through the
2 jurisdictional issues. There were several options available to
3 them. They could have gone down the road of a multi-state
4 compact, which quite literally requires an act of Congress. They
5 had the option also to maybe designate one of the jurisdictions as
6 the entity and that jurisdiction would receive the money. And
7 then the third option would be to enter into an MOU, which is what
8 they eventually did, and in May of 2014 we approved that certified
9 work plan.

10 MS. BURTCH: Thank you. What has FTA done, to date, to
11 respond and implement NTSB safety recommendations?

12 MR. LITTLETON: That's a good question. And you know,
13 early on, as we first adopted our MAP-21 authority, we depended
14 upon "Dear Colleague" letters to be able to do that. However, we
15 very quickly transitioned to using safety advisories, which is
16 something that we could do under our new authority. Since that
17 time we have issued four safety advisories since I've been at the
18 FTA. We issued two in response to two different CTA events, one
19 in response to a BART event, and also the most recent one related
20 to this event.³

21 MS. BURTCH: Thank you. Do you also have emergency
22 order action authority like FRA?

23 MR. LITTLETON: No, we do not.

24 MS. BURTCH: Do you have the ability to impose civil

³ The FTA provided a correction. The FTA stated that they have issued five safety advisories. The fifth advisory was in response to fire events on the vintage Memphis trolley cars.

1 penalties like FRA?

2 MR. LITTLETON: No, we do not.

3 MS. BURTCH: And are you seeking to obtain these
4 authorities under the Grow America Act?

5 MR. LITTLETON: Yes, ma'am, we are.

6 MS. BURTCH: Thank you. That's all.

7 CHAIRMAN HART: Thank you, Ms. Burtch.

8 Now we will go to the second round of questioning under
9 D.C. EMS. Mr. Geldart, do you have any further questions?

10 MR. GELDART: Thank you, Chairman Hart. Just one --

11 CHAIRMAN HART: Please.

12 MR. GELDART: -- additional question. And again for
13 Ms. Baryshev, for the TOC. There was a lot of discussion in here
14 about the hazards database that is maintained by the TOC. Is that
15 database fed by any external data sources such as calls for
16 service from the individual jurisdictions that make up our region?
17 For example, you know, from the District of Columbia, just on our
18 fire side, we've got 91 events just since January that involve
19 either a Metro station or a Metro tunnel box alarm. We're
20 averaging about 242 total events per month within the WMATA system
21 just in the District of Columbia. It seems to me there would be
22 some rich data within that for the hazards database. Is that
23 included in the hazards or in the studies that you do?

24 MS. BARYSHEV: Yes, it is included in our -- we keep
25 accident/incident -- we call it the accident/incident log. That's

1 like a database for all calls TOC receives and they include fires
2 and all kinds of incidents on the WMATA system and we keep a log
3 of these incidents.

4 MR. GELDART: Is there any comparison between the calls
5 that you receive and the calls that are received to any of the 911
6 centers or dispatching entities within the NCR, to try to compare
7 to?

8 MS. BARYSHEV: No, we're not doing that.

9 MR. GELDART: Would that be something that would be
10 helpful to the hazards log and the incident tracking?

11 MS. BARYSHEV: I think to include all hazards in a log,
12 yes.

13 MR. GELDART: Thank you. That's all I have, sir.

14 CHAIRMAN HART: Thank you, Mr. Geldart.

15 ATU 689, Mr. Madaras?

16 MR. MADARAS: Mr. Hart, we have no further questions.

17 CHAIRMAN HART: Thank you.

18 IFF Local 36, Mr. Hudson?

19 MR. HUDSON: No, sir, no further questions.

20 CHAIRMAN HART: Thank you. WMATA, Mr. Dougherty?

21 MR. DOUGHERTY: Thank you, Chairman Hart.

22 I have a question for Mr. Keay. And certainly, thank
23 you for being here with us today also. But could you tell me what
24 measures do you use to evaluate safety culture?

25 MR. KEAY: We've got two tools, actually two separate

1 tools that we use for culture and we conduct very in-depth
2 inspections by going out and looking at what tasks are being
3 undertaken. We've got a set questionnaire that we ask --

4 DR. POLAND: Mr. Keay, I'm sorry to interrupt you.
5 Could you pull the microphone a little bit closer?

6 MR. KEAY: Certainly.

7 DR. POLAND: Thank you.

8 MR. KEAY: We've got a questionnaire set that we ask the
9 people at the shop end of the operation, they're the operatives,
10 and we go through the whole chain of management asking various
11 targeted questions right up to the board members of the company.
12 And from that, we feed that information into a model, which then
13 gives us a score so we can score the safety culture within that
14 organization. Does that help?

15 MR. DOUGHERTY: It does, thank you, because it comes up
16 with a, in essence, a matrix of a kind. So then it's scored?

17 MR. KEAY: Yes, indeed.

18 MR. DOUGHERTY: Okay.

19 MR. KEAY: Yeah.

20 MR. DOUGHERTY: Yes, thank you, sir.

21 This question is for Mr. Littleton, if you could,
22 please, sir. I just wanted -- and I'll say, prior to the January
23 12th incident. In the FTA's knowledge and base, does the FTA feel
24 that safety management and safety culture has -- you know, I
25 shouldn't say feel, but based on the data that's been provided --

1 improved at WMATA over the past 5 years?

2 MR. LITTLETON: Yes, thank you, Mr. Dougherty. That's a
3 very good question. In our SMI report, we actually had a trend
4 line in there that showed an improvement in safety tracking of the
5 -- for WMATA. And we noted in the report that WMATA has made
6 significant improvements to safety. I think the thing that people
7 misunderstand is, is that the good work that you and your safety
8 shop have done putting into place policies and procedures and
9 mechanisms for safety, is not the be-all and end-all. That's not
10 the end of achieving a change in safety culture or revolution.

11 And the fact of -- just like David said earlier, really
12 the hard thing is culture, and it's easy to develop procedures and
13 mechanisms and put them into place, but until you have people who
14 embrace that, you haven't changed the safety culture and that is
15 the longer and more difficult pole to put up in the tent. So
16 WMATA has made significant improvements since Fort Totten, and I
17 applaud your efforts. We think that WMATA is a safe system and it
18 can be made safer.

19 MR. DOUGHERTY: Thank you, sir.

20 Thank you, Chairman Hart. That concludes WMATA's
21 questions.

22 CHAIRMAN HART: Thank you, Mr. Dougherty.

23 Tri-State Oversight Committee? Mr. Tebo, any further
24 questions?

25 MR. TEBO: Yes, sir. A question for Mr. Littleton.

1 Sir, you mentioned there are 30 state safety oversight
2 agencies within the nation?

3 MR. LITTLETON: Yes.

4 MR. TEBO: How many of those oversight agencies serve
5 multi-jurisdictional rail transit agencies?

6 MR. LITTLETON: Very few. There are three, counting the
7 TOC.

8 MR. TEBO: Is the TOC the only agency that provides
9 safety oversight to three jurisdictions?

10 MR. LITTLETON: Absolutely, they are. It is a very
11 unique problem that you all have to solve.

12 MR. TEBO: Have the other two oversight agencies that
13 are multi-jurisdictional, have they reached an agreement and been
14 certified as of this point?

15 MR. LITTLETON: The answer is yes. They have a very
16 different problem to solve, though. They have a very, very small
17 overlap between their jurisdictions and in both cases they elected
18 to just designate one party as the SSO.

19 MR. TEBO: One jurisdiction?

20 MR. LITTLETON: One jurisdiction.

21 MR. TEBO: Okay, thank you, sir.

22 A question for Mr. Lauby.

23 MR. LAUBY: Yes, sir.

24 MR. TEBO: How are you, sir? The Federal Railroad
25 Administration oversees freight and commuter rail, correct?

1 MR. LAUBY: Correct.

2 MR. TEBO: Does the Federal Railroad Administration
3 require the rail transit agency, or the rail agency, to develop
4 and maintain a system safety program plan or similar document?

5 MR. LAUBY: At this time there is no requirement that a
6 commuter railroad maintain or a freight railroad maintain a system
7 safety program plan. There is a notice of proposed rulemaking
8 that does require it as part of the Rail Safety Improvement Act of
9 2008. As soon as those rules come out, that requirement will be
10 in place.

11 MR. TEBO: So in the absence of that, are these commuter
12 rail systems required to develop and maintain corrective action
13 plans on results of any of your audits that you conduct?

14 MR. LAUBY: They do a lot of things voluntarily. They
15 have had system safety programs for many years voluntarily through
16 an APTA program that FRA has participated in. When we ask them to
17 provide hazard analysis and other things based on a safety issue,
18 they usually comply even though it's through our influence, not
19 through our regulations, that it happens.

20 MR. TEBO: Thank you, sir. No further questions. Thank
21 you, sir.

22 CHAIRMAN HART: Thank you, Mr. Tebo.

23 Federal Transit Administration, Ms. Burtch?

24 MS. BURTCHE: Thank you. For Mr. Littleton. How much
25 money has TOC been eligible to receive for state safety oversight

1 standup? And why have they not taken advantage of the funding
2 resources?

3 MR. LITTLETON: The TOC is eligible for \$4.5 million
4 under our current apportionment. There are delays to this point
5 in being able to apply for that grant. It's just been internal
6 workings on their part. They had to do some work to identify how
7 they would do that. One of the interesting things, I think, that
8 is worth pointing out is that there's a little bit of a disconnect
9 when we think about the difference between the legal requirements
10 to establish a certified work plan, which really means that the
11 states have until 3 years after the passage of the final SSO rule
12 to meet compliance, versus the timeline we would like to see.

13 And so the thing that concerns me is the -- given the
14 unique complexity and issues facing WMATA, I would like to see the
15 TOC be more expeditious and move on a faster timeline. I would
16 like to make sure that they don't leave money on the table.
17 They're working toward being able to submit for that grant.
18 However, they have only until the end of September before they
19 will leave money on the table.

20 MS. BURTCH: Thank you. The FRA mentioned they have 365
21 inspectors. How many does the FTA -- or equivalent, how many does
22 the FTA have?

23 MR. LITTLETON: We currently have two on staff.

24 MS. BURTCH: Two. Thank you. Also, what type of safety
25 data is currently reported in the NTD? And safety data

1 specifically. And are there barriers in general to collecting
2 safety data?

3 MR. LITTLETON: Absolutely. You know, without pulling
4 out a laundry list to go through all of the exact things that
5 quantifies the safety data -- you know, that's one of the tough
6 things, is just about anything could be safety data if you need it
7 to be able to assess a risk. There are a significant number of
8 barriers that we face to be able to effectively collect data for
9 safety. First of all, it's overcoming the cultural inertia. You
10 know, we were changing the way that the federal culture of safety
11 works, just as well as the properties and the state safety
12 oversight agencies are.

13 The other thing, too, is that whenever we place a
14 reporting requirement on anybody, it has to go through a
15 regulatory impact analysis because we are under the Paperwork
16 Reduction Act and not allowed to just require a limitless amount
17 of information from people.

18 And then the final thing is, as we already alluded to,
19 under the Grow America Act we're asking for FOIA protection for
20 the safety data that we collect. And that's vitally important
21 because people -- our success depends upon a partnership with the
22 industry and with the states and we need to be able to have this
23 free exchange of safety information. And if we can't collect
24 safety information, we won't be effective. And so we need to
25 have, like the other modal administrations, FOIA protections in

1 place, and those are a part of Grow America.

2 MS. BURTCH: Thank you. That's all I have.

3 CHAIRMAN HART: Thank you, Ms. Burtch.

4 That completes the parties' questioning for this panel
5 and now we will move on to the questioning by the Board of
6 Inquiry. Each Board member will have 5 minutes and we will see if
7 we need a second round of questions. And we'll start that with
8 Member Sumwalt.

9 MEMBER SUMWALT: Thank you, Chairman Hart.

10 I'd like to pull up Exhibit F1. And Mr. Littleton, this
11 discussion will be directed to you. This is really in follow-up
12 to a question that Ms. Burtch asked. Do you recognize this
13 letter, October the 1st, from you, sent to Sean Connaughton, Carl
14 Jackson, and James Smith?

15 MR. LITTLETON: Yes, sir, I do.

16 MEMBER SUMWALT: And what is this letter about -- this
17 memo all about?

18 MR. LITTLETON: This memo -- I haven't had time to read
19 it, just to make sure it's the one I'm thinking it is -- is
20 basically a response to their submittal of their certified work
21 plan. The process we work through with each of the states --
22 recognize that for each state, it is a completely unique puzzle to
23 solve with how to achieve MAP-21 compliance. In some cases,
24 states have to actually alter their state constitutions⁴ to be

⁴ The FTA submitted a correction. This should refer to the state statutes.

1 able to meet the requirements. There is a variety of pieces of
2 the Rubik's cube. And so in their initial submittal to us, our
3 biggest concern, and the thing that we rejected it for, was the
4 fact that it did not define a legally representative organization
5 out of the jurisdiction that could receive our funding and be
6 recognized under MAP-21 as an SSOA.

7 MEMBER SUMWALT: Yes. And I think the first bullet
8 point may have been a major stumbling block for TOC, in that it
9 says, is legally and financially independent of the rail transit
10 system it oversees.

11 MR. LITTLETON: Correct.

12 MEMBER SUMWALT: And here we've got -- would that
13 include the fact that we have employees of the transit
14 organization that are working for TOC? For example, I think --

15 MR. LITTLETON: Yes, sir.

16 MEMBER SUMWALT: Okay. For example, the chairman,
17 Ms. Baryshev, I believe you're actually employed by the District
18 of -- no, you're -- let's see. You're employed by the District of
19 Columbia.

20 MS. BARYSHEV: Yes.

21 MEMBER SUMWALT: Yeah.

22 MS. BARYSHEV: The Department of Transportation.

23 MEMBER SUMWALT: Yeah, okay. So that -- all right.
24 Let's go all the way to the end of this document, and there are
25 several things going back and forth. On February the 26th of last

1 year, we have a letter to Secretary Foxx from then-Maryland
2 Governor Martin O'Malley, then D.C. Mayor Vincent Gray, and
3 Virginia Governor Terry McAuliffe. And basically, this letter
4 says -- the third paragraph -- we are hereby directing our
5 transportation executives to create a Metro Safety Commission, an
6 independent organization that would assume the responsibilities of
7 the TOC. So will the TOC go away? Either you or Ms. Baryshev.

8 MR. LITTLETON: Yes, sir. My understanding is that the
9 TOC will dissolve as an entity and transfer over to the
10 Metropolitan Safety Commission.

11 MEMBER SUMWALT: So that will provide this independence
12 that MAP-21 requires?

13 MR. LITTLETON: Yes, sir.

14 MEMBER SUMWALT: I'm through with that document so you
15 can pull that down.

16 Ms. Baryshev, would you like to comment on that?

17 MS. BARYSHEV: Just that TOC will transform in the Metro
18 Safety Commission and we're working toward being in compliance
19 with MAP-21 as we are still TOC. We're improving our different
20 activities, documentation. So we are working toward one day we'll
21 be like a step from TOC to MSC.

22 MEMBER SUMWALT: Okay. And at what point do you expect
23 this Metro Safety Commission to be in existence?

24 MS. BARYSHEV: We have 3 years after issuing final rules
25 to complete the process, and the final rules, as we know right

1 now, will be issued sometime in 2016.

2 MEMBER SUMWALT: Okay, thank you. You had indicated
3 earlier in your testimony, Ms. Baryshev, that the TOC does not
4 have enforcement powers, is that correct?

5 MS. BARYSHEV: That's correct.

6 MEMBER SUMWALT: My question to you is, how on earth
7 does an organization provide oversight if they don't have
8 enforcement powers?

9 MS. BARYSHEV: Just trying, trying and trying.

10 MEMBER SUMWALT: Would the answer to that be not very
11 well?

12 MS. BARYSHEV: No, I think do a good job with what we
13 have.

14 MEMBER SUMWALT: Okay, I'll let it go at that. And I
15 yield the 24 seconds that I have left.

16 CHAIRMAN HART: Thank you, Member Sumwalt.
17 Member Weener.

18 MEMBER WEENER: Thank you for the extra time.

19 MEMBER SUMWALT: Yes.

20 MEMBER WEENER: Mr. Littleton, it's an obvious question
21 in some people's minds that FTA and FRA run similar sorts of
22 equipment over similar sorts of tracks under similar sorts of
23 conditions. So the obvious question is, since FRA regulations
24 have been around -- especially safety regulations -- decades, if
25 not in fact maybe generations, why not just port all of the FRA

1 regulations for safety over into FTA and call it a done deal?

2 MR. LITTLETON: Sir, that's a very good question and
3 it's actually a very common question that we get asked. The
4 subtlety lies in the fact that despite the outward appearance of
5 similarity between the FRA and the FTA, there is a significant
6 difference in our regulatory authorities. The FRA has the ability
7 to deal directly with the properties that it oversees, whereas the
8 FTA has to work through the state safety oversight agencies. So
9 that changes the flavor a little bit of our ability to transport
10 those rules over.

11 However, there is a good deal of commonality and
12 Mr. Lauby and I -- our staffs work together. We are very
13 cognizant of the fact that we do not want to make duplicative or
14 parallel or conflicting rules. So we're making an effort to
15 leverage every opportunity to make commonality in those rules.

16 And I'd also add that we have the same issue with the
17 Coast Guard. They have jurisdiction over navigable waters and we
18 would have jurisdiction over ferry boats in non-navigable waters,
19 although we're not aware of any of those at this time. And so we
20 have been in contact and working with the Coast Guard also to make
21 sure that they understand that we will not tread into their
22 regulatory authority.

23 MEMBER WEENER: As an aside, what is a non-navigable
24 waterway?

25 MR. LITTLETON: You know, amazingly or maybe not

1 amazingly, there is a legal definition of that and it's, to my
2 understanding, two bodies of water that connect.

3 MEMBER WEENER: All right, we'll leave that one alone.
4 One of the things that Federal Rail has done is to gather a lot of
5 industry support through committees, through interactive
6 rulemaking committees and so forth. Is FTA going to do the same
7 sort of thing, develop industry support?

8 MR. LITTLETON: Absolutely, sir, we are very engaged
9 with our industry. Probably the closest analogy that is already
10 in existence would be our Transit Advisory Committee on Safety,
11 TRACS. This is a group that is representative of industry,
12 academia, the unions, and it has very, very broad support across
13 the industry. That group meets regularly, normally twice a year.
14 The FTA works with them to determine topics that are of pressing
15 interest to the FTA. Currently the TRACS committee is working on
16 a report about worker assaults and also about fatigue. And so we
17 do have a committee that we leverage.

18 And I would tell you that the industry has been great
19 partners with us. We very much drew on a model of how SMS was
20 infused across the aviation world. You know, it took something
21 like almost 15 years for the FTA to be able to pass a rulemaking
22 on SMS. But really early in the process, the aviation industry
23 saw the value of it and it partnered with the FAA. And actually,
24 at the end of the day, it was like two roads that met at the end.
25 And so that's the model we're following too, is that industry

1 engagement.

2 MEMBER WEENER: Yes, I realize that SMS is heavily
3 incorporated into the rulemaking that FTA is doing. The kind of
4 parallel question to the FRA is how have safety management
5 systems, SMS, impacted the FRA environment?

6 MR. LAUBY: Well, the FRA is moving towards the SMS
7 model also. We don't rely on safety management systems or
8 enforcement. We don't rely on safety management systems alone,
9 because we already have inspectors. We have an enforcement
10 program that we think is a very important element of a complete
11 safety system. So when we talk about our safety system, we talk
12 about three pillars of safety.

13 The first is the enforcement with the inspections, the
14 things that we do now. The second is an SMS model where we use
15 system safety, confidential Close Call reporting systems, risk
16 reduction programs. We put those together for the softer side of
17 safety, what we would consider the softer side. We use those to
18 influence behavior. And finally, we have a robust research and
19 development program that goes on, that finds new ways to -- new
20 technologies that can enhance safety and we try to identify them
21 and implement them as quickly as possible. And those are the
22 three elements that we rely on right now.

23 MEMBER WEENER: Thank you.

24 CHAIRMAN HART: Thank you, Member Weener.

25 Vice Chairman Dinh-Zarr.

1 VICE CHAIRMAN DINH-ZARR: Thank you, Chairman.

2 This first question is for Ms. Baryshev and
3 Mr. Littleton. With MAP-21 and the TOC converting into the Metro
4 Safety Commission, what's going to be -- could you explain to me
5 the differences in oversight and activities between the TOC and
6 the FTA in a few years?

7 MS. BARYSHEV: So MAP-21 describes more oversight
8 activities than Part 659. Also, at that time TOC, as you said,
9 will be transformed in the Metro Safety Commission. That will be
10 independent agency. As mentioned, the employee will not work for
11 any -- over three jurisdictions. That agency will have power of
12 enforcement of rules and regulation. So that's what's going to
13 happen when MAP-21 will be in place.

14 VICE CHAIRMAN DINH-ZARR: And Mr. Littleton, when you
15 answer the question, could you specifically address how that --
16 the differences in oversight that your two organizations will be
17 covering?

18 MR. LITTLETON: Yes, ma'am. Recognize that in general
19 form, MAP-21 is very similar to 659. It just has a higher bar of
20 what's required for the state safety oversight agencies. And
21 Ms. Baryshev did an excellent job summing up the financial
22 independence, the investigatory independence, and the enforcement
23 authority's independent.

24 For the FTA, as we transition into this, we really begin
25 to adopt the role of looking at the industry from a safety

1 management point of view. When we deal with the individual state
2 safety oversight agencies, we will help them with technical
3 capacity or advice where they need it. And we certainly have the
4 authority and will exercise it to dive deeper, to investigate, to
5 inspect, to examine, to audit, to test those things that we think
6 we need to be able to provide effective safety to the industry.

7 VICE CHAIRMAN DINH-ZARR: But specifically for WMATA,
8 are you going to have some overlapping authorities and activities?

9 MR. LITTLETON: You know, in the case of this particular
10 mishap, right now we're more involved because the TOC does not
11 have the capability to do some of the work that we can do right
12 now. The thing that I would point out is, is that we are very
13 small and we've kind of hinted at our resource limitations. WMATA
14 is just one property of many and we do not have the manning or
15 resources to be able to provide detailed day-to-day oversight of
16 every single property. So we very much depend upon the SSOAs to
17 provide that day-to-day look at safety and their properties and to
18 be able to elevate to us concerns.

19 VICE CHAIRMAN DINH-ZARR: Thank you. So my other
20 question is for both Mr. Lauby and Mr. Littleton. How does FRA
21 and FTA conduct its audits? I mean, who do you use? Do you use
22 your own personnel or do you use contractors?

23 MR. LITTLETON: For the FTA, originally we were very,
24 very heavily dependent upon contractors. That ratio changes as we
25 get more federal employees available. The thing I would always

1 point out is that despite who collects the information for us,
2 that expertise for that, at the end of the day there is an FTA
3 face on that. In the case of the inspections and the safety
4 management and system gap analysis, et cetera, that we conducted
5 with WMATA and also the recent TOC triennial audit, there was an
6 FTA person there leading that team.

7 The other thing that I would like to highlight about
8 that is that again it gets back to the resource issue. I used to
9 be in the FAA and the FAA aviation safety department has 7,200
10 people in it. They have an expert in everything, so it makes it
11 very easy for them to leverage their own expertise. We will
12 probably always be dependent upon some level of contractor support
13 for technical expertise to conduct audits, unless something very
14 significant happens.

15 VICE CHAIRMAN DINH-ZARR: Thanks. Mr. Lauby?

16 MR. LAUBY: Yes, we primarily use our own employees,
17 both our inspectors and we also have technical experts at
18 headquarters that we will send out to conduct audits on any given
19 subject. So it's primarily FRA employees that do that work.

20 VICE CHAIRMAN DINH-ZARR: Thank you.

21 Five seconds, Mr. Chairman.

22 CHAIRMAN HART: Thank you, Vice Chairman Dinh-Zarr.

23 I have a question, starting with Mr. Littleton. The
24 large report that you just issued is now in the docket. It was
25 issued on June 17th, about WMATA. So that listed a number of

1 findings and a number of -- I don't know, is recommendation the
2 right word? What's the right word?

3 MR. LITTLETON: Required action, sir.

4 CHAIRMAN HART: Okay, all right. It's even stronger,
5 then. So what's the next step for you on that? And how does that
6 -- I'm still not clear about how that structure relates to the TOC
7 structure. So what are the next steps now that that report is out
8 there saying these things need to be done?

9 MR. LITTLETON: Absolutely, sir. In this case, when we
10 issued those required actions in our first-ever safety directive,
11 I want there to be no misunderstanding, the FTA will oversee those
12 corrective actions that result. We issued a grand total for
13 WMATA, both the rail and the bus side, a total of 91 required
14 actions under the umbrella of 44 findings.

15 So the way forward on that is WMATA has 30 days from the
16 issuance of that report for due process, to ask for
17 reconsideration of any of the items covered. And then, upon the
18 closeout of that 30 days, they have another 60 days -- 90 days in
19 total -- to develop a set of critical action plans to address
20 those. We will be directly -- we, meaning the FTA, will be
21 directly involved on a regular basis with WMATA as they develop
22 those critical action plans and we will have final authority to
23 say whether they are sufficient or not.

24 That said, we do not intend at all to leave the TOC out
25 of this process. What we would like to do is engage them fully

1 along the way and have them, if you will, as our wingman
2 throughout the process. And our hope is, is that as they
3 transition to a fully MAP-21 compliant organization, that they'll
4 be able to draw from this experience to model their future
5 oversight of WMATA.

6 CHAIRMAN HART: Do the required items have deadlines on
7 them? Or how does that work?

8 MR. LITTLETON: You know, sir, they cover such a broad
9 range of issues that we have not placed any deadlines on them.
10 Really, what we expect is, is that -- you know, we make the joke
11 that we don't want to -- normally we say a 2,000-mile federal
12 screwdriver that reaches across the country. But in this case
13 it's only about a 10-mile federal screwdriver that has to reach
14 across the city.

15 We don't intend to tell them how to fix things. We've
16 identified areas that require an action and we want WMATA to use
17 their expertise and understanding of their operating environment
18 to bring us answers. Again, we hold the hammer for deciding
19 whether they're sufficient or not, but we don't have any entering
20 preconceived notions of what the answer is to each one of these.
21 So as far as a time limit goes, it really depends upon the actions
22 that are decided upon.

23 And the other piece is, is let's not forget that WMATA,
24 like everyone else, lives in a resource-constrained environment
25 and I suppose, if they had a blank checkbook, they can maybe fix

1 everything faster. But really it will depend upon the priorities
2 set and the availability of resources for WMATA to be able to
3 tackle those.

4 CHAIRMAN HART: Okay, thank you.

5 Mr. Keay, I have a couple questions for you. I don't
6 want you to come this far and feel ignored, so I want to -- first
7 of all, I was fascinated by the breadth of what you do, and one of
8 the things you mentioned that was interesting to me, you talked
9 about measuring safety culture. So I'd be interested in how you
10 measure safety culture. We're all challenged with how to put some
11 quantification on that.

12 MR. KEAY: Okay. We did quite a bit of research into it
13 10 years ago and we developed an inspector's toolkit, that an
14 inspector can go along to a company, a rail company, and they're
15 tasked with looking at what is actually being done on the ground,
16 asking a set of predetermined questions of the operatives and
17 asking questions throughout the management chain right away to the
18 board of directors and talking to the board of directors.

19 So what we're looking for is what safety culture is. We
20 all know what it is. It's not walking past anything that's unsafe
21 without reporting it or stopping it. It's about communication
22 both ways. It's about a fair and just culture within the
23 organization. There's a whole raft of parameters that we can then
24 establish where they are on the spectrum and those are used as a
25 final score, effectively, of where we rate a company with its

1 culture.

2 CHAIRMAN HART: Does that give you a comparative, a way
3 to compare different organizations regarding their safety culture?

4 MR. KEAY: It does, yes. Very much so, yes.

5 CHAIRMAN HART: That's very impressive. I'd like to
6 learn more about that.

7 MR. KEAY: And that's very helpful.

8 CHAIRMAN HART: That's something we could certainly
9 benefit from learning. And my kudos to the team that organized
10 this meeting, to reach out overseas and bring you here. And my
11 kudos to them for doing that, because that's a great idea to make
12 that comparison.

13 My time is out now, but on our next round I am going to
14 ask you the second question I wanted to ask you. You've got both
15 mass transit and inner-city rail under your jurisdiction and I'm
16 curious of what you think of the split in the way we do it here on
17 this side of the pond and I'd be interested in your thoughts on
18 the goods and the bads of that. But I'll do that in the next
19 round. Thank you.

20 Member Sumwalt.

21 DR. POLAND: Mr. Keay, would you be able to provide to
22 the NTSB the inspector's toolkit that you mentioned, and the
23 questionnaire, so that we could possibly dive into those measures
24 of safety culture further?

25 MR. KEAY: Certainly, I'd be pleased to do that. It's

1 in the public domain in the UK, so yes.

2 DR. POLAND: And if there are other documents that you
3 think would be helpful along those lines of measurements of safety
4 culture, we would appreciate that. So we'll mark down those two
5 to be added to our docket, but if there are others that you think
6 would be valuable, we would appreciate it.

7 MR. KEAY: Yeah, the other one is the management
8 maturity tool, as well.

9 DR. POLAND: Thank you.

10 CHAIRMAN HART: Thank you very much for your willingness
11 to provide that information to us.

12 Member Sumwalt.

13 MEMBER SUMWALT: Thanks. That will be fascinating to
14 see those documents. So thank you, Mr. Keay.

15 Mr. Littleton, I'd like to follow up with what the
16 Chairman was talking about just a few moments ago and that's your
17 safety management inspection, which we entered into the docket
18 yesterday morning. And one of the things that is mentioned here
19 on page 27, it says that the FTA's SMI, safety management
20 inspection, identified organizational deficiencies and operational
21 concerns that continue to limit the agency's effectiveness. And
22 you're talking about the agency here. You're talking about
23 WMATA's effectiveness? Are you talking about the FTA's
24 effectiveness?

25 MR. LITTLETON: WMATA's.

1 MEMBER SUMWALT: That's what I thought. So you
2 identified organizational deficiencies and operational concerns
3 that limit WMATA's effectiveness in recognizing and resolving
4 safety issues and hazards. Do you recall what any of those issues
5 were?

6 MR. LITTLETON: You know, they've received a lot of
7 press. I would use as a good example the -- of the training
8 issue. That's one of my favorites. Training is vitally important
9 to being able to effectively do your job. In the ROCC it's not
10 fully manned. As a result of the limited manning, they've not
11 been able to do the recertifications and training that they have
12 in their own SOPs. And so that's one of the inefficiencies.
13 Another one would be the already discussed, in previous panels,
14 issue of availability of track time for maintenance.

15 MEMBER SUMWALT: Yeah, thank you. And to be clear, the
16 report points out that WMATA has 20 -- is understaffed in the ROC
17 -- in the OCC, rail operation control center -- understaffed by 20
18 positions.

19 MR. LITTLETON: I believe that number is correct.

20 MEMBER SUMWALT: That's on page 33. And the last
21 question I want to ask you, Mr. Littleton, is that you pointed out
22 in this report that the ROCC lacks formal procedures, manuals and
23 checklists. And we heard some testimony to that effect yesterday.
24 They may have those procedures and checklists, but they don't
25 necessarily refer to them. And you go into that quite a bit here.

1 So when an organization either doesn't have adequate procedures or
2 they have the procedures but they don't follow them, what does
3 that say about the organizational culture, the safety culture?

4 MR. LITTLETON: You know, in my experience, that is
5 representative of a legacy safety culture in a lot of ways. You
6 know, one of the tricky things is that, as a transportation
7 industry -- really, as a nation, we're transitioning from a legacy
8 view of safety, one that is focused on reactive safety, one where
9 safety was maybe viewed as something that we put in a binder and
10 put on a shelf and that we check off annually that we did
11 something, but really don't embrace what the spirit of the law was
12 as opposed to the letter of the law. And when I see things like
13 that, what it flags to me is that we're facing the generational
14 change.

15 I mentioned earlier that it's one thing to put policies
16 and procedures and mechanisms into place. But until we get people
17 to say that this is the way we do things, we haven't really
18 changed anything. And right now people say, well, this is the way
19 we do things, but that's the last generation of safety. We need
20 to move forward in enough time that people go this is the way we
21 do safety and this is the way that we think of safety in the 21st
22 century.

23 MEMBER SUMWALT: Would you consider that -- and I guess
24 the fact that it's one of the findings in your SMI -- is that a
25 red flag, if you will, too, that something is awry in an

1 organization when they're not following their procedures?

2 MR. LITTLETON: Absolutely.

3 MEMBER SUMWALT: Thank you very much. I yield the
4 balance of my time for the rest of this hearing.

5 CHAIRMAN HART: Thank you, Member Sumwalt. I see we've
6 given you the fear of God about going through a red signal.

7 MEMBER SUMWALT: Yeah, exactly.

8 CHAIRMAN HART: Member Weener.

9 MEMBER WEENER: Let me just ask a couple questions to
10 follow on in some sense to what Member Sumwalt was just talking
11 about, but as well the discussion that we had the last time I was
12 asking some questions.

13 Mr. Lauby of the FRA talked about using inspections,
14 audits, and enforcement as a means to achieve safety. You're
15 talking about SMS, which is really a policy of risk management, of
16 safety assurance and safety promotion; much softer. And I don't
17 recall much in the line of SMS that has enforcement -- that
18 depends on enforcement. So how are you going to effect safety
19 change without having enforcement capability?

20 MR. LITTLETON: Sir, that is absolutely a fantastic
21 question and it really does hearken back to the last piece. And
22 the thing I probably should have brought up was that the problem
23 we face is much more complex than FRA. You know, when we talk
24 about urban rail, light rail -- you know, the commuter rail issue
25 is a different animal -- we also have to look at the fact that we

1 oversee buses and eventually we will expand that out in accordance
2 with the statute to cover all of the public transit that's
3 federally funded. So when we say that we have this variety of
4 things to face, we recognize that one size does not fit all and
5 that makes it very difficult to work an enforcement angle versus
6 working to improve their culture. And we really think that that's
7 where we're going to be able to make our biggest impact.

8 The other thing that's different is, is again the sheer
9 size of the resources available. Mr. Lauby has -- and correct me
10 if I'm wrong, Bob. You have about 700-and-some people total in
11 your organization, with half or even more of those being field
12 inspectors that are able to go out there. In my organization I
13 have 30 folks who do safety and I have two accident investigators
14 to cover all of our concerns. So we will never be able to be an
15 FAA or an FRA and have that presence for enforcement in the field.
16 So we really need to find a model and an approach that emphasizes
17 changing the culture and making the culture such that ignoring
18 safety or doing things that are unsafe is an unacceptable flavor.

19 MEMBER WEENER: So you're really dependent on
20 inculcating the proper culture for safety and that's your means of
21 arm-twisting influence, seducing people into doing the right
22 things.

23 MR. LITTLETON:⁵ Yes, sir, that is our primary focus on

⁵ The FTA requested a clarification on Mr. Littleton's reponse. The FTA documented that Mr. Littleton misspoke, in that he confused the remedy against a State and all grantees within that State, under 49 U.S.C. § 5329(e)(3), with the FTA Administrator's ability to withhold funds from an individual transit agency, in whole or in part, under 49 U.S.C. § 5329(g)(2). In addition, the

1 it. Under our current authorities we really have a very limited
2 portfolio of abilities to go out and actually, to use your
3 language, coerce somebody into doing what we want. ~~Right now, if~~
4 ~~we have a property that is non-cooperative, the only option~~
5 ~~available to us is to remove funding for the entire state. We~~
6 ~~don't have any selective or scalable response in our regulatory~~
7 ~~authorities.~~

8 MEMBER WEENER: So based on your experience at the FAA,
9 which you have -- you left about 2 years ago, as I recall.

10 MR. LITTLETON: Yes, sir.

11 MEMBER WEENER: How successful has SMS been for the
12 commercial air carriers?

13 MR. LITTLETON: It has been enormously successful. You
14 know, one of the things that I think is most amazing is that --
15 and the statistic I'm about to quote might be a little off, but
16 it's in the ballpark. Secretary LaHood, I believe it was -- or
17 maybe it was his predecessor -- had set a goal in the first decade
18 of the new millennium of reducing the commercial aviation accident
19 rate by a huge number, and at the end of the first decade, it had
20 been decreased by 87%. I think that's the number. And that is
21 really a testament to the fact that not only did the FAA pursue
22 aggressively SMS as a way to affect culture, but also the airline
23 industry, the general aviation community, all of them took good
24 steps in that direction and they embraced it and then had

FTA requested for clarification that the last two sentences of Mr. Littleton's
response be deleted. Those lines are marked with the strikethrough.

1 fantastic results.

2 MEMBER WEENER: So at what point did the FAA require all
3 of those carriers to put an SMS in place?

4 MR. LITTLETON: I think the actual regulation just
5 passed a couple of months ago.

6 MEMBER WEENER: Actually the end of next year, I think,
7 is when --

8 MR. LITTLETON: It goes into effect.

9 MEMBER WEENER: -- it's supposed to be in place. So
10 most of the carriers have voluntarily put it into place?

11 MR. LITTLETON: Yes, sir. And you know, I think that
12 that's the thing that we're already beginning to see across our
13 industry, is that people are not adverse to what it is that we're
14 trying to do. In fact, I think that they're very happy that we're
15 being considerate in our application of our regulatory authority,
16 that we recognize that one size does not fit all. I mean, it's a
17 significant difference between, say, a two-bus operator in rural
18 South Dakota and what goes on in New York City. And for us to be
19 able to be consistent and to be effective, I think that SMS is
20 absolutely the path forward.

21 MEMBER WEENER: Is SMS scalable from a one-bus operation
22 to a large fleet operation?

23 MR. LITTLETON: Absolutely, it is. And that's one of
24 the amazing things and it's already been demonstrated in other
25 industries, like the trucking industry, the mining industry, the

1 petroleum industry, and the aviation community.

2 You know, the real meat of when you boil down to an SMS
3 is that you need an accountable executive. You need a person who
4 has the authority and the resources within an organization to make
5 decisions that balance operational considerations with the safety
6 requirements. And that also involves transit asset management.
7 The state of good repair is the link between the two and that's
8 why we packaged asset management along with our safety as we roll
9 these rules out.

10 And so you know, if you, Member Weener, or the
11 accountable executive of that 2-bus operation with 10 employees --
12 you probably, without a large and robust set of structures and
13 committees or data collection, understand the risks that are in
14 front of you. You know probably exactly what intersections you
15 have accidents at, the maintenance status of your vehicles. But
16 if Member Sumwalt was, say, running New York City as the
17 accountable executive, he has a much different problem to
18 understand all of the safety issues, asset management issues and
19 operational issues. He requires a larger structure that is more
20 formal. And that is the beauty. SMS, the principles of it don't
21 change. It allows you to be flexible and find the right size to
22 fit your organization.

23 MEMBER WEENER: Thank you, Mr. Littleton. And I have
24 overrun my red signal here.

25 CHAIRMAN HART: Thank you, Member Weener.

1 Vice Chairman Dinh-Zarr.

2 VICE CHAIRMAN DINH-ZARR: Thank you, Chairman.

3 A quick question for you, Mr. Littleton, to start off.
4 Since FTA just released that extensive review of WMATA, how does
5 that compare to a typical audit that you would complete for a
6 transit agency?

7 MR. LITTLETON: Well, this is actually our first one out
8 the door under our new authority. The only thing that's really
9 been similar that we did was we undertook an examination of the
10 Chicago Transit Authority back in the fall and over the winter.
11 The difference there between the two was that in Chicago they had
12 brought in a new chief safety officer and he called and asked for
13 our assistance. That was formally communicated through his
14 leadership and the FTA was asked to come in and evaluate how their
15 safety culture was and how they could find a good path forward for
16 that. It was really very different than what we did in WMATA,
17 where we cast a wide net looking at everything in fairly close
18 detail, operations, bus, rail, the whole package.

19 So we don't normally go out and do audits of individual
20 properties. That's an option in our toolkit. I would tell you
21 that the way we are going to be able to achieve the same effect is
22 through the implementation of SMS. We're getting ready to roll
23 out a series of SMS pilot programs, assuming that the funding all
24 works out to be able to support that. And the idea there is, is
25 that we will help the industry be able to put effective SMSs in

1 place, where they will be able to find their own risks and
2 mitigate them appropriately, rather than having to have us just
3 show up and find them for them.

4 VICE CHAIRMAN DINH-ZARR: Thank you.

5 And I hope I'm not stepping on the Chairman's toes if I
6 ask Mr. Keay a question. Thank you for coming all the way across
7 the pond. Your agency, your government agency, Mr. Keay, the ORR,
8 it covers similar oversight activities to the FRA, the TOC, and
9 the rail activities of the FTA. So based on what you've heard
10 during this hearing, could you compare the oversight capabilities
11 of your agency to ours here in the United States?

12 MR. KEAY: Right. We're more aligned to the FRA,
13 clearly, insofar as we've got enforcement powers as well, but we
14 apply legislation uniformly across all of the transit modes. But
15 all of the transit modes have all got SMS, they've all got an SMS
16 and that SMS, as Mr. Littleton was saying, is tailored to that
17 particular company. So I think it's possible, whilst you got a
18 different legislative setup in the United States, that, you know,
19 uniformity should be able to be possible actually across the
20 piece, really.

21 And the model we've got, it works very well and it
22 brings consistency and the transit authorities all know what is
23 expected. They all know what standards they've got to work to.
24 There's no differentials between them. So I think that's another
25 effective driver of getting excellence in each of the companies,

1 that they know that this is for consistency.

2 VICE CHAIRMAN DINH-ZARR: Thank you. And that concludes
3 my questions.

4 CHAIRMAN HART: Thank you, Vice Chairman.

5 Actually, that answered my question very well, too. So
6 I just have one more and that's for Mr. Littleton. And I'm not
7 sure if I really understood this, but what happens if the WMATA
8 does not meet the required -- does not do all the required
9 actions? Then what happens?

10 MR. LITTLETON: Sir, that will be the subject of a lot
11 of discussion.

12 CHAIRMAN HART: Okay, that's what I thought.

13 Okay, do we have any more questions from any of the
14 members?

15 Okay. Well, that concludes our questioning. At this
16 point we have time to return it to the Tech Panel.

17 Dr. Poland.

18 DR. POLAND: Thank you, Chairman Hart. I'll turn the
19 questions over to Mr. Jones.

20 MR. JONES: Thank you, Dr. Poland.

21 Mr. Lauby, this morning in the first panel we heard
22 quite a bit of discussion on WMATA's close call program that
23 they've implemented, and I'm just curious. Does the FRA sponsor
24 or participate in any railroad's close call programs?

25 MR. LAUBY: Yes, the Federal Railroad Administration, in

1 partnership with Volpe, developed a confidential Close Call
2 reporting system that we've applied on over seven railroads,
3 including Union Pacific and several commuter railroads and Amtrak
4 -- parts of Amtrak. And the Confidential Close Call Reporting
5 System is a complete system which gets waivers from the Federal
6 Railroad Administration on certain requirements. It provides
7 confidentiality and protections when individual members of a train
8 crew or a railroad employee report safety issues to the data
9 gatherer. Right now we are using NASA as our data collector.
10 NASA has a similar program for aviation that's been very
11 successful and we're building out the program as we speak.

12 MR. JONES: Okay, thank you.

13 And, Mr. Littleton, this morning Mr. Troup, in the first
14 panel, alluded to a few different standards that it sounds like
15 WMATA has sort of benchmarked off some FRA regulations, such as
16 railway worker protection. I think you brought up some different
17 train control regulations -- I'm just curious. I'm trying to get
18 my head around how are the different transit agencies now -- what
19 consistent practices do they use? For instance, track standards,
20 do they have the same track standards? The same signal standards?
21 If there's a highway rail grade crossing that the transits have,
22 are they treated differently by different transit agencies? And
23 even the states, do they have different standards for those
24 agencies?

25 MR. LITTLETON: I think that what you would find -- you

1 know, the industry has done a very good job of unifying itself
2 around a set of industry standards. The APTA produces standards
3 in most of these areas, and the industry, by and large -- I can't
4 think of any particular examples that don't follow APTA and other
5 industry standards in these areas. You're right. I think that
6 what you're getting at is, is that, you know, the Federal -- the
7 FTA has not yet published any standards in these.

8 And I'll reference Mr. Hiller's discussions earlier. It
9 would be speculation on my part to really tell you what it is that
10 will come out of final rulemakings. It's very complicated. We
11 spent a lot of time deliberating on this topic and the rulemaking
12 that we produced will be very well thought out with regards to
13 setting standards.

14 MR. JONES: Okay, thank you. And from what I heard
15 earlier, I guess then it will be up to the SSO to enforce those
16 standards.

17 MR. LITTLETON: You know, we would expect that the
18 industry will follow the standards based off our guidance, the
19 SSOs that will be the people on the scene, who are the first-line
20 of defense for being able to assess the safety and compliance of
21 those systems.

22 MR. JONES: Okay. And Ms. Baryshev, you mentioned
23 earlier about the tri-annual reviews that the TOC does with WMATA.
24 In between those, do you do any random inspections on WMATA?

25 MS. BARYSHEV: Actually, we don't because we are loaded

1 with the tri-annual review. It's almost on a continuous basis.
2 We also review accident investigations, corrective action plans.
3 We meet with WMATA. And there are only three people at TOC to do.
4 And we wish we can. We do only when they are traveling on the
5 trains. We see something's wrong and we might initiate a review,
6 as we did on intercom on the railcars, when people could not
7 communicate with the train operator and we issued a special -- we
8 did a special study and asked WMATA to look into this issue. And
9 it was tested and it was found that certain series of cars, when
10 they're put together in the consist, will not allow, in case of
11 emergency, communicate with the train operator. So when we go
12 around the system, we see edge lights are not working or PA at the
13 station is not clear, we also initiate reports and ask WMATA to
14 expand inspection of these issues.

15 MR. JONES: All right, thank you.

16 Mr. Hiller.

17 MR. HILLER: Thank you, Mr. Jones.

18 Mr. Littleton, I want to circle back to a comment that
19 you made earlier. TOC does not have the capability in this mishap
20 and you went on to explain that's why the FTA became involved.
21 Can you clarify what you meant by that statement?

22 MR. LITTLETON: Our feeling is, is that if the FTA --
23 I'm sorry, if the TOC had been effectively engaged at the level we
24 are expecting of them out of MAP-21, that they would have been in
25 a position to better screen and catch a lot of the issues. You

1 know, accidents are a chain of events, right? So any one of those
2 links could have been broken along the way. We recognize that the
3 TOC is in the process of building toward MAP-21 compliance, and in
4 the absence of the full capability under MAP-21, we want to be
5 able to make sure that the right things are done to help WMATA get
6 back up on the step and to give the TOC the best mentoring that we
7 can in that process.

8 MR. HILLER: So just to follow on. We asked the
9 question to TOC: How does the TOC measure the performance of its
10 own organization? How does the FTA measure the performance of not
11 just the TOC but all state safety oversight agencies?

12 MR. LITTLETON: Well, you know, as we look at SMS, I
13 think I can tell you the model that we use right now is our SMS
14 gap analysis tool and it's actually very similar to the UK model
15 that was discussed. We just recently published the SMS gap
16 analysis on WMATA and what you see out of that is that there are a
17 number of areas that are evaluated and graded on a one to four
18 scale, with four representing a mature SMS model. And that gives
19 us the ability to benchmark the safety culture of an organization
20 and give us direction on where we need to help them.

21 MR. HILLER: I thank you for that answer. So you
22 mentioned TRACS and I don't want to use an acronym. So this was
23 the Transit Rail Advisory Committee for Safety and it's been
24 working with the FTA for some time. And in some of our research
25 we learned that in 2011, TRACS made some recommendations to the

1 FTA and they were, in a sense, FTA should be given the authority
2 to set minimum national standards; FTA should ensure enforcement
3 authority of state safety oversight in their role as compliance
4 agent. What does the FTA do with recommendations from the TRACS
5 committee?

6 MR. LITTLETON: Sure. We have really a wide variety of
7 options. As I mentioned earlier, there is a group that's composed
8 from across the industry, academia, union representation, and the
9 nice thing is, is that when we ask them to look into an issue for
10 us, we really get a lot of broad buy-in from across the entire
11 industry of what it is that they report. There's no real surprise
12 to the industry of the information there.

13 So when we get a TRACS report and recommendations from
14 the TRACS, we incorporate it where we need to. For instance, our
15 rulemaking has been greatly informed by the information that we
16 have gotten from TRACS on a variety of subjects. If we felt so
17 compelled, we could issue "Dear Colleague" letters or even safety
18 recommendations -- safety advisories, if we identified an issue
19 out of a recommendation that we felt like was worthy of it.

20 MR. HILLER: Would you say FTA's rulemaking is consensus
21 rulemaking?

22 MR. LITTLETON: You know, absolutely. The process of
23 rulemaking is really amazing. You know, I think one of the unique
24 things we face is the number of rules that we're making completely
25 from scratch. Most organizations rarely bring on a completely new

1 rule. They work to amend existing rules. And the interesting
2 thing is, is that as we wade forward on our rulemaking, we do have
3 to take in a lot of input from stakeholders. We really take the
4 comments we receive on the NPRMs very seriously.

5 I will give you as a really good example of how much we
6 want to make sure that we have an understanding of what our
7 stakeholders are concerned about, is the fact that we didn't go
8 straight to an NPRM with all of these rules. We actually issued
9 an advanced notice of proposed rulemaking, and what that really
10 was, was largely a collection of questions to the industry about
11 what they thought on these things.

12 So when you say consensus, I will tell you that the
13 leadership team at the FTA is decisive, but we do not make our
14 decisions in a vacuum. We use the best information available and
15 we very much value the input of stakeholders, because there's an
16 old joke that, you know, if the federal government is left
17 completely to its own counsel, it's bound to miss something. So
18 we very much welcome all input.

19 MR. HILLER: I thank you for that.

20 And in my last few seconds I'd like to ask Mr. Lauby,
21 can you cite an example of a regulatory requirement that has a
22 significant impact on safety?

23 MR. LAUBY: Could I cite -- would you repeat that again?

24 MR. HILLER: Cite a regulatory requirement that has had
25 a significant impact on safety.

1 MR. LAUBY: Well, we have about 2,000 that we have in
2 our rulebook. Some of the current ones: locomotive engineer
3 certification; locomotive conductor certification; track
4 inspection standards that put minimum requirements on how people
5 maintain track; equipment standards; crash worthiness standards
6 for passenger railcars; requirements for windows and requirements
7 for doors. There are many, many, many different areas where we
8 have done this. Another example is signal maintenance
9 requirements; our grade-crossing maintenance requirements;
10 hazardous material regulations; requirements for tank cars. There
11 are a lot of them.

12 MR. HILLER: Thank you for the answer.

13 Dr. Schultheisz.

14 DR. POLAND: Let me interrupt you for one minute. Just
15 to clarify, Mr. Littleton, you talked about the FTA gap analysis
16 for the TOC and you said there was a recent report. I see in our
17 docket we have Exhibit F-1. That's from October 2013. Is there a
18 more recent gap analysis done by the FTA?

19 MR. LITTLETON: Absolutely. Last week, on June 17th, we
20 issued seven documents in response to this accident. One of those
21 was our safety management system gap analysis of WMATA.

22 DR. POLAND: I believe Member Sumwalt requested two of
23 the documents to be added into the docket. So I'll add that third
24 one as well to the docket.

25 MEMBER SUMWALT: That's on the FTA website, I believe.

1 Isn't that right? Yes.

2 MR. LITTLETON: Yes, sir, that's correct.

3 MEMBER SUMWALT: Thank you.

4 DR. SCHULTHEISZ: And also associated with those
5 reports, there was also a state safety oversight audit of the Tri-
6 State Oversight Committee.

7 MR. LITTLETON: That's correct. Our triennial review.

8 DR. SCHULTHEISZ: Okay. So I think that should be added
9 to our docket as well.

10 MR. LITTLETON: That's also available on the FTA
11 website.

12 DR. SCHULTHEISZ: Right. So I wanted to go back to
13 Ms. Baryshev briefly. How does the TOC interact with WMATA's
14 safety management system? Could you turn your microphone, please?

15 MS. BARYSHEV: I turned it off. We have access to
16 WMATA's management system through their website. I have a VPN
17 that they can access this way also, and we can review the SMS
18 system.

19 DR. SCHULTHEISZ: Do you have access to WMATA's
20 confidential Close Call reporting system?

21 MS. BARYSHEV: No. And we were not involved in the
22 development of this program. We asked to be part of it, but we
23 were not provided an opportunity.

24 DR. SCHULTHEISZ: So Mr. Littleton, in terms of
25 developing SMS systems for state safety oversight agencies, do you

1 think they should have access to close call reporting systems and
2 things like that?

3 MR. LITTLETON: Absolutely.

4 DR. SCHULTHEISZ: Do you have guidelines for the SMS
5 interactions between state safety oversight agencies and their
6 transit authorities?

7 MR. LITTLETON: As we publish our rules and we look at
8 SMS, recognize that it's almost a pyramid of interaction. Within
9 an SMS, say, at a transit agency, they collect information. They
10 analyze that to identify risk and mitigate it and then produce
11 actions. The results of their actions and also the data that they
12 collect, in turn, feed the SMS of the organization above them.
13 And it really cascades all the way up to us at the FTA.
14 Eventually, once we have it all in place, our full safety
15 management system capability, the outputs of our SMS and our
16 process will go back to the bottom of that. Those will feed the
17 properties with the things that we see are concerns in the
18 industry type of things. So should they have access? I would say
19 that they're all connected.

20 DR. SCHULTHEISZ: Okay, thank you.

21 Ms. Baryshev, does WMATA undertake corrective actions or
22 implement work plans to address safety concerns that are not
23 reviewed by the TOC, things that might be small or routine?

24 MS. BARYSHEV: There are some corrective actions coming
25 from -- after action reports that are not included in our database

1 that we do not review, and we are working with WMATA to make sure
2 these corrective actions are included in a database.

3 DR. SCHULTHEISZ: And if I understood yesterday,
4 Mr. Grooman mentioned that there was a work order designation
5 related to fire, life, or safety, that would indicate a safety
6 critical action is necessary. And if the action had not been
7 completed in 30 days, the work order would be highlighted in red
8 to ensure that it was implemented. Is the TOC informed of those
9 safety critical work orders?

10 MS. BARYSHEV: We have no access to Maximo system,
11 but --

12 DR. SCHULTHEISZ: Okay. And then also yesterday,
13 Mr. Epler mentioned that the underground communication system was
14 being upgraded. Did the TOC review and approve the plan for that
15 upgrade?

16 MS. BARYSHEV: No.

17 DR. SCHULTHEISZ: Okay. Does the TOC participate in the
18 council of government meetings between WMATA and the fire chiefs?

19 MS. BARYSHEV: No.

20 DR. SCHULTHEISZ: I guess I'd like to ask Mr. Littleton
21 a question. You mentioned \$4.5 million that's on the table, and
22 could you explain a little more what TOC needs to do to be able to
23 have access to those funds?

24 MR. LITTLETON: At this point it's making the grant
25 application process. When we originally conducted our audit of

1 them, they had not gotten the MOUs signed amongst the
2 jurisdictions, to be able to make that application. They have --
3 maybe it was last week or 2 weeks ago, I had a conversation with
4 Ms. Baryshev and her staff and they're pressing forward with the
5 grant application process at this time.

6 DR. SCHULTHEISZ: And Ms. Baryshev, I guess I'd go back
7 and ask -- so there's a lot of work that's being done to achieve
8 MAP-21 compliance to have access to these funds, et cetera. Do
9 those activities detract from the ability of TOC to do safety
10 oversight of WMATA?

11 MS. BARYSHEV: No, not at all. This is work which is
12 ongoing on MAP-21, is about funding and we work closely with COG.
13 And as Mr. Littleton mentioned, there is an MOU between COG and
14 the three jurisdictions to authorize COG to manage funds. But
15 staff, TOC staff, continues to work on, like, implementing 659 and
16 work on improving 659 in accordance with MAP-21 requirements.

17 DR. SCHULTHEISZ: Okay, thank you. I'll turn the
18 questions back to Mr. Jones.

19 MR. JONES: Actually, Mr. Hiller has one more question.

20 MR. HILLER: Thank you, Mr. Jones.

21 Tom, if the FTA has no safety jurisdiction over
22 facilities, such as some airport people mover systems that don't
23 receive FTA funding, how can the public be assured there's any
24 safety oversight of those systems?

25 MR. LITTLETON: Sir, the answer to that is we can only

1 exercise authority over the properties that we're given
2 jurisdiction over by federal law. I really don't feel qualified
3 to speak about how those individual properties are overseen for
4 safety. But I can assure you, as I mentioned earlier, that the
5 FTA takes the public's safety very seriously, and for those
6 properties that we do have jurisdiction over, we will work day and
7 night and ceaselessly with what resources we do have to make sure
8 that we give the riding public and the workers the safest
9 environment possible.

10 MR. HILLER: Thank you.

11 Mr. Jones, no further questions.

12 MR. JONES: Thank you.

13 This concludes our panel, Dr. Poland.

14 DR. POLAND: Chairman Hart, that concludes the fourth
15 panel of the hearing. Thank you.

16 CHAIRMAN HART: Thank you, Dr. Poland. And before we
17 close, could you review the exhibit items that have been requested
18 for this group?

19 DR. POLAND: Sure. I'll ask Mr. Allen to again review
20 the exhibits that were requested for Panel 4.

21 MR. ALLEN: Thank you, Dr. Poland.

22 For Panel 4, from the FTA, we've asked for the safety
23 statistics on smoke and fire incidents for the past 5 years. For
24 the UK Office of Rail Regulation, we've asked for the inspector's
25 toolkit, the questionnaire that we discussed, and the management

1 maturity tool. For, sorry, FTA another one -- I missed that one
2 -- I believe we have all seven documents that were released last
3 week, already, but if we don't, if we could get those and we'll
4 have those in our docket.

5 The rest of the requests were for TOC. We were asking
6 for the records of the 2014 fire and smoke events within the WMATA
7 system; the report of the 3-year safety review from February 14th
8 of last year; the May 1st, 2015 WMATA monthly hazard logs.
9 Actually, we'd like those for the last 5 years, along with the
10 WMATA list of corrective action reports for the last 5 years.

11 And I believe that's all I have. Thank you.

12 DR. POLAND: Chairman Hart, we'll work with the
13 witnesses and parties to obtain those documents over the next 30
14 days.

15 CHAIRMAN HART: Excellent. Thank you.

16 This is very good timing because walking into the room
17 as we speak is Mr. Michael Flanigon. Most of you who have been in
18 the railroads for a long -- railroad business for a long time have
19 seen him one way or another. He's been in the railroad business
20 in, as they said in the Clint Eastwood movie, every which way but
21 loose. So it's my sad responsibility to announce that he will be
22 leaving at the end of this week. He has been such a huge
23 contribution to the safety of the traveling public. So let me go
24 through some of his amazing accomplishments to show you how he's
25 been through it every which way but loose. He's forgotten more

1 about rail safety than I ever knew.

2 He's from California originally and he's been involved
3 in rail transportation for more than 40 years. His first railroad
4 job was with the Southern Pacific Railroad and he worked as a
5 switchman, a brakeman, and a conductor and a locomotive engineer.
6 What a diversity of talent he has. And while he was there he was
7 also the secretary treasurer of UTU Local 100 and served on the
8 joint safety committee. So he's seen it from that aspect as well.

9 So in order to just provide a little variety, he then
10 joined the Navy. Then he came back and worked nights for the
11 Southern Pacific, and to bolster his expertise in this industry,
12 he went to the University of California at Los Angeles and got a
13 degree in anthropology. So that clearly enhanced his performance
14 in this business, who knew anthropology. And if that wasn't
15 enough, he went and got a master's degree in physical anthropology
16 and then a second master's degree in public administration. So
17 what a master of knowledge this person is.

18 Then he met his wife, Mary Jo, at college in Riverside,
19 California, and they have one daughter and two grandchildren.
20 Then they moved to the San Francisco Bay Area and worked for
21 Southern Pacific Railroad in Oakland as an engineer. Then he
22 moved to the other side and now he's going to go work for the
23 California Public Utilities Commission in the state's rail transit
24 safety oversight program. So as I say, he's seen it from every
25 direction you can see it. Then he went to the Santa Clara Valley

1 Transportation Authority to serve as the environmental health and
2 safety manager, and then he went to work for BART in San
3 Francisco.

4 He came here to the NTSB in 2001, moved to Southern
5 California and joined the NTSB, and only 2 years later, just to
6 show how quickly they recognized what an amazing person he is,
7 only 2 years later he received the Regional Investigator of the
8 Year Award from the NTSB.

9 Then he went to the FTA. So now he's seen it not only
10 from the investigator side but from the regulatory side as the
11 director of technology and later as the director of safety and
12 security. And he, at the FTA, served as a member of the
13 Secretary's emergency response team and as chairman of the FTA
14 Transit Rail Advisory Committee for Safety, which is TRACS.
15 You've heard about that. And in 2009 and '10 he received the
16 Secretary of Transportation safety award for his amazing work
17 there.

18 He's been on different chairs and hearings and Board
19 meetings as a party participant. He returned to the NTSB in
20 February of 2011; 2012 and '13 he served as organizer and lead
21 instructor for annual industry training on the NTSB's
22 investigation process. That training goes on to this day at the
23 Training Academy. And then in 2014, just last year, he received
24 the managing director's award for his amazing contribution in
25 improving railroad and rail transit safety. He's been IIC since

1 2011, since he returned to the NTSB, in no less than 10 accidents,
2 including this accident at L'Enfant that we're looking at now and
3 at the recent Amtrak accident in Philadelphia. So he has really
4 gotten around and it's amazing what contribution he has made.

5 And if that's not enough, he's a senior associate on the
6 Transportation Safety Institute faculty and has taught rail system
7 safety and rail accident investigation courses for more than 20
8 years; also received the Department of Transportation safety and
9 security program certificate and is a certified safety and
10 security director through the World Safety Organization. So he's
11 really been around and he's been an amazing attribute to enhance
12 not only rail transit safety, but safety in general for the
13 traveling public. So a round of applause for Mike Flanigon.

14 (Applause.)

15 CHAIRMAN HART: So now that you'll be home again, I
16 guess your wife will get to know you and I hope the two of you
17 have the best of continued success in whatever you do. And thanks
18 so much for contributing to the safety of all of us. We certainly
19 appreciate that. Do you have anything you would like to say,
20 having embarrassed you fully at this point?

21 MR. FLANIGON: The only thing I'd say is, well, thank
22 you and it's -- I've just been very fortunate to have a lot of
23 these experiences in my career and I particularly appreciate and
24 feel like it's been a real privilege to be part of the work here
25 and I'm just glad I could contribute. So thank you.

1 CHAIRMAN HART: Well, thank you. And that comment makes
2 it clear what I just read. It talks about his professional
3 contributions, but we will miss him on a personal basis as well.
4 Thank you, Michael.

5 (Applause.)

6 CHAIRMAN HART: Now that all of the witnesses have
7 testified, this hearing regarding the NTSB investigation into the
8 January 12th accident involving heavy smoke in a Washington
9 Metropolitan Area Transit Authority tunnel is concluded. The
10 record will remain open for additional materials that were
11 requested during the hearing.

12 On behalf of my fellow Board members and the NTSB staff,
13 I thank each of the witnesses for their testimony, that's been
14 very illuminating, the parties for their cooperation, which your
15 engagement has been -- has really made this possible, and then of
16 course my fellow Board Members for their total engagement, and
17 that's not only at this hearing but throughout the course of the
18 investigation.

19 I also thank the numerous NTSB staff members who worked
20 so hard to support this hearing and make it run as smoothly as it
21 did. In the past 2 days we've added greater clarity to the facts
22 and circumstances of this tragic accident, but unfortunately we've
23 also raised more questions that will need to be answered. So yet
24 more work for the very competent staff.

25 The transcript will be made available to the parties and

1 witnesses electronically within 7 days of completion of this
2 hearing. And witnesses or parties should send any corrections to
3 the transcript to Dr. Poland, who is the hearing officer, and do
4 that within 30 days by July 24th, 2015. Participants should send
5 any documents or information that they agreed to furnish during
6 the hearing, the ones that were listed at the end of each session.
7 Send those also to Dr. Poland, the hearing officer, by July 24th,
8 2015.

9 The archive of the hearing webcast will remain on the
10 NTSB website for several months after this hearing. The
11 transcript of the hearing and all of the materials entered into
12 the record will become part of the public docket, along with other
13 records of the investigation, including the additional exhibits
14 that Dr. Poland has enumerated over the last 2 days.

15 This hearing has been a very helpful step in our ongoing
16 investigation, allowing us to gain more extensive insight into the
17 infrastructure, planning, culture, and climate that existed at the
18 time of this accident, and to help us understand decisions,
19 procedures, and actions.

20 Far too often we see a tragedy that was preceded by
21 opportunities missed and warning signs ignored. By learning how
22 to identify those precursors and perhaps by educating others with
23 what we find in our investigations, hopefully we can break that
24 chain of events to help prevent future accidents.

25 It is our hope that this hearing and our subsequent

1 final report will yield recommendations which, if acted upon, will
2 improve safety, not only for WMATA, but also throughout the
3 passenger rail and rail transit community, which is responsible
4 for moving millions of people every day safely and efficiently.

5 Thank you again for your very active participation. We
6 stand adjourned.

7 (Whereupon, at 4:37 p.m., the hearing in the above-
8 entitled matter was adjourned.)

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CERTIFICATE

This is to certify that the attached proceeding before the
NATIONAL TRANSPORTATION SAFETY BOARD

INVESTIGATION OF: WMATA SMOKE AND ELECTRICAL ARCING
ACCIDENT IN WASHINGTON, D.C.

PLACE: Washington, D.C.

DATE: June 24, 2015

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.

Edward Schweitzer
Official Reporter