

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of:

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SEPTA TROLLEY ACCIDENT
PHILADELPHIA, PENNSYLVANIA
JANUARY 4, 2017

Accident No.: DCA17FR003

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Interview of: DAVE ROGERS

SEPTA Headquarters
Philadelphia, Pennsylvania

Saturday,
January 7, 2017

APPEARANCES:

MIKE HOEPF, Human Performance Investigator
National Transportation Safety Board

STEPHEN JENNER, Ph.D., Human Performance Investigator
National Transportation Safety Board

RICK DOLBIN, State Safety Oversight
PennDOT

RON NEWMAN, Business Agent
TWU Local 234
(On behalf of Mr. Rogers)

<u>ITEM</u>	<u>I N D E X</u>	<u>PAGE</u>
Interview of Dave Rogers:		
By Dr. Jenner		5
By Mr. Doblin		22
By Dr. Jenner		51

I N T E R V I E W

(10:00 a.m.)

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3 DR. JENNER: Good morning. It is 10:00 a.m. on January 7th,
4 2016 [sic]. My name is Stephen Jenner. I'm an investigator with
5 the National Transportation Safety Board. We are at the SEPTA
6 Headquarters in Philadelphia, Pennsylvania in regards to the
7 trolley accident that occurred on January 4th, 2017. The purpose
8 of this interview is to discuss with Mr. David Rogers, the Senior
9 Director of Surface Transportation of SEPTA, about some of the
10 policies that were in place at SEPTA.

11 We'll go around the room and have everyone introduce myself.
12 Again, my name is Stephen Jenner, S-T-E-P-H-E-N, J-E-N-N-E-R, and
13 I'm investigator with the NTSB.

14 To my left?

15 MR. DOLBIN: Rick Dolbin, D-O-L-B-I-N, with Pennsylvania
16 Department of Transportation, Safety Oversight.

17 MR. ROGERS: Dave Rogers, R-O-G-E-R-S, Senior Director of
18 Surface Transportation for SEPTA.

19 MR. NEWMAN: Ron Newman, N-E-W-M-A-N, Local 234 Business
20 Agent.

21 MR. HOEPF: Mike Hoepf, H-O-E-P-F, NTSB Human Performance
22 Investigator.

23 DR. JENNER: Very good.

24 Mr. Rogers, you can see from in front of us we've got a bunch
25 of recorders going and we'd like to record this interview. Are

1 you okay with that?

2 MR. ROGERS: Yes, I am.

3 DR. JENNER: Terrific. This will be transcribed. You'll get
4 an opportunity to read the transcript and review it for accuracy.

5 MR. ROGERS: I understand.

6 DR. JENNER: Terrific.

7 INTERVIEW OF DAVE ROGERS

8 BY DR. JENNER:

9 Q. During yesterday's interviews with SEPTA operators, we heard
10 reference a couple of times about a point system that's in place
11 and they were talking in reference to if there are absences or if
12 there are incidents. And so, if you can shed some light about the
13 policies that are in place and how it affects these trolley
14 operators?

15 A. Well, it's negotiated with the union. It's in the labor
16 agreement and it's -- really, there's two relevant things in the
17 labor agreement and actually a third thing that was not spoken of
18 yesterday. You have your tenants point system which outlines in
19 very specific language both penalties and credits for having
20 absences that aren't FMLA approved. And the other thing that
21 wasn't gone into, but is important is -- and again, it's
22 negotiated -- is the sick leave policy, you know, how you accrue
23 sick leave and that matters that affect that accrual. And then,
24 finally, you know, with any sort of illness that's documented by a
25 physician, it could be a single absence or it can be a condition

1 that will allow you to have intermittent leave of a certain
2 frequency and duration, which takes you say outside the whole
3 attendance police. You don't, you do not get a point for a
4 serious illness or a condition, like a recurrent condition.

5 Q. Okay. So, again, to meet that criteria, you would need
6 physician approval?

7 A. Correct.

8 Q. Okay. And if you don't have physician approval, can you walk
9 us through that process?

10 A. Yeah. So, if I have an absence, I called out today, and you
11 have 15 days to get the physician's documentation, but if you
12 don't -- if you chose not to do that or if it's not done, then you
13 are issued two points in this points, the Tenant's Point System.

14 Q. I'm sorry. The 15 days, how does that work?

15 A. You have 15 days to have the FMLA request completed and
16 submitted.

17 Q. Before the absence occurs?

18 A. After the absence.

19 Q. Oh, okay.

20 A. Yeah. Oh, yeah.

21 Q. So, initially, you may have a 2-point deduction, but if you
22 end up seeing a physician?

23 A. It would just be adjusted.

24 Q. Okay.

25 A. That's the lingo we would use for going in the computer and

1 -- of removing the two points. It's just adjusted and then you
2 would note the -- every approval has a number assigned to it, so
3 it would be adjusted as per FMLA such and such number.

4 Q. Okay. What's the process for getting that adjustment? What
5 does a trolley operator after --

6 A. Well, there's a --

7 Q. -- after seeing a physician?

8 A. There's a third-party administrator involved in this and it's
9 -- the company is AmeriHealth and they administer the policy for
10 us, so the document will be submitted to them, it will be
11 approved, and then they would issue to the manager -- like, I am,
12 say, the director at Midville. Then I would be sent an email of
13 that approval, then I would do the appropriate clerical work. And
14 this third-party administrator actually maintains the records on
15 any individual that's submitted paperwork, again, for intermit
16 leave or for single absence or for other. You know, I can be
17 taking off to care for a sick child, my wife, my parent. And they
18 maintain that; we don't maintain that. What they do is they
19 maintain it and give us the approval documentation. And they also
20 maintain -- there's specific requirements. You have to work 1250
21 in the last year. There's a certain number of days associated --
22 it's a 12 weeks a year, 12 weeks in a given year, and you have to
23 have worked 1250 hours and they track that, whether the time has
24 been worked. They track how much leave has been used and so
25 forth, and then based on what they receive, then they -- we just

1 get the approval.

2 Q. Okay. Now, if you need to -- I think you mentioned care for
3 a sick family member, a child.

4 A. Yeah. If you're the primary -- I believe you have to be like
5 the primary caregiver.

6 Q. Now, if there are two parents and a child, is -- how does
7 that --

8 A. You can be the primary. I mean, if I have two 82-year old
9 parents, you know --

10 Q. Okay.

11 A. -- you don't expect -- it's pretty -- I think it's a good
12 system. I think it works. People do have the opportunity to care
13 for parents, children, you know, as needed.

14 Q. Okay. So, if that's a legitimate physician-approved illness
15 of a child, for instance --

16 A. Correct.

17 Q. -- is -- that's a legitimate reason for someone to miss work
18 and not have point reduction?

19 A. Yeah. I would give -- well, I'll give you a common example,
20 is my 9-year-old has asthma. A lot of children today have asthma
21 and what that would get me is not just approval for a single
22 absence just because they've got asthma -- we call that
23 intermittent leave and what happens is based on what the physician
24 provides to AmeriHealth, then they approve it for a certain number
25 of times a month and of a certain duration. You know, it could be

1 two or three times a month for 2 days at a time, let's say, and
2 that's, that approval is usually good for -- well, I don't --
3 correct me if I'm wrong. I think approvals are good for like 6 to
4 12 months --

5 Q. Okay.

6 A. -- then I may have to update my paperwork.

7 Q. I see.

8 A. Now, if one day I feel sick and I'm scheduled to work the
9 next day, how can I mark off, if that's a correct term -- call in
10 sick --

11 Q. Yeah, same thing.

12 A. -- without -- I'm not going to a physician, but I'd like to
13 not work the next day, but not have any points added?

14 Q. Well, then you'll have the opportunity to -- and Ron and I
15 were involved in this. We just resolved something that was going
16 to go to an arbitration or --

17 MR. ROGERS: It didn't go through; we settled it on our own,
18 right?

19 MR. NEWMAN: Yes.

20 MR. ROGERS: Yeah, we settled it where, let's say I don't --
21 that's my scenario. It's Sunday and I don't want the points. I
22 can elect to work one of my days off and it will be -- as far as
23 we're concerned, it's deemed as you having swapped your day.
24 Like, I was off Sunday and I worked -- my days off are Tuesday and
25 Wednesday and I don't feel well on Sunday. I take -- I call out

1 sick on Sunday and -- but I can tell them I want to work on
2 Wednesday for straight time; it's not time and a half. And what
3 happens is then that's deemed to have changed my day off.

4 BY DR. JENNER:

5 Q. And in that situation, there's no point consequences?

6 A. No, because it's -- that other day is deemed as my fifth work
7 day --

8 Q. Oh, okay.

9 A. -- or as one of my five.

10 Q. Okay. Yeah, that's an interesting fact. I'm -- thanks for
11 mentioning that. Is there a time of day that -- if I'm scheduled
12 to work Sunday and I wake up Sunday afternoon and I wake up Sunday
13 morning, do I have to call within a certain number of hours --

14 A. No.

15 Q. -- for the shift to --

16 A. No.

17 Q. -- start of my shift?

18 A. And there's no language associated with that. Like, I could
19 have called out Saturday evening for my Sunday run or I could have
20 called out an hour and a half before my Sunday run, so I'm on
21 Sunday.

22 Q. Okay. Dave, I'm going to apologize. I'm not sure if you
23 were part of the interviews yesterday with the --

24 A. I was there for the second operator interview.

25 Q. Okay. All right. Can you talk to me about accumulation of

1 points over a period of time and once you meet a certain
2 threshold, what are the consequences?

3 A. Well, there's -- I'll back into it. If someone accumulates
4 too many points and reaches discipline status, there's three
5 discipline steps. The first time would be a one-day suspension;
6 the second time will be 5-day suspension; and the third time would
7 be discharge with dignity, which puts you in a position where you
8 can request a last chance. Well, I'm backing into it. But, what
9 gets you into one of those discipline statuses is having
10 accumulated 20 points. To make it more complicated, at the last
11 step, you get two points for every 5 years of service. So, I'm
12 saying 20 points, but I have 20 years on the job, so I would need
13 28 points to take that final step because I get an extra two
14 points for every year of service. So, I get 20, 22, 24 and it
15 wouldn't generate -- it wouldn't put me in discipline status.

16 Q. So, if you've been here for 3 years, how many points --

17 A. Twenty.

18 Q. Okay.

19 A. It'd be 20 for every step because you haven't gotten to five
20 yet. So, for one day --

21 Q. Okay.

22 A. -- 5-day suspension -- and these are -- there's no time
23 served associated with these. This is just a label, one-day
24 suspension, 5-day suspension, then the discharge with dignity,
25 then last step. Three-year, it will be 20 points for every step.

1 And then the other side of that coin is that for every 30 days of
2 attendance, you get two points removed, for every 30 days of
3 attendance.

4 Q. Okay. Does that start at the beginning of the month or --

5 A. No, no, it's a roll-in 30 days. It's based on -- well, that
6 -- and that'll allow me to answer another question. I came back
7 from an illness today, so tomorrow is day one.

8 Q. Okay.

9 A. It's -- or I just got a credit today. I could come back from
10 an illness tomorrow and it'll be day one for the next credit, or I
11 just got a credit. I got a credit today; I got two points
12 removed, and tomorrow would be day one of my next 30-day period.
13 And what we do if there's interruptions in the middle -- like,
14 this is for coming to work, so you're getting credits every day
15 you come to work. But, let's just say in the middle of that, I
16 had taken off 4 days to care for my son and it was FMLA approved,
17 but -- so I wasn't here, so that just -- you just extend it by 4
18 days, you adjust it.

19 Q. Okay. Can you talk about how often do you have to deal with
20 people who exceed the 20 point? How common is that?

21 A. My role anymore isn't like the day-to-day operation. I'm
22 like -- I manage the people that manage the day-to-day operation.
23 But, for what it's worth, my opinion, I would say the -- it's the
24 newer folks. Newer folks can have difficulty with it. It's --
25 when people settle into their job, that stuff just seems to go

1 away.

2 Q. Let me ask you another question. How else can one accumulate
3 points besides absences?

4 A. Well, you can -- if you're late for work, we call that a
5 miss. So, if I arrive after the time I was scheduled to arrive,
6 that's five points.

7 Q. That's worse than not showing up at all?

8 A. Yeah. This is historical. I mean, this goes back -- I mean,
9 I'm here 37 years and it was this way before I came. The idea is
10 I call in Saturday evening and my run goes out at 8:00 on Sunday
11 morning. Well, they have from Saturday evening till Sunday
12 morning to fill that run. They may have someone on report. They
13 may make some calls and have someone come in and work at time and
14 a half. The run goes out. The work gets out. People get picked
15 up. But, if I miss, there's a great likelihood people are being
16 standing on a corner for a bus that isn't going to come.

17 Q. Okay. So, the penalty there is more severe because if you
18 call in, they'd get you --

19 A. We have an opportunity to remedy it.

20 Q. Yeah, right.

21 A. Yeah.

22 Q. Okay.

23 A. That's the right -- yeah.

24 Q. It's you're left hanging and --

25 A. Yeah.

1 Q. -- and you can't remedy it?

2 A. And hand in hand with that is the idea that a second -- I'm
3 aware that I'm dumping a lot on you.

4 Q. That's fine; that's why we have these.

5 A. But, second half miss is seven points --

6 Q. Okay.

7 A. -- and what that is is because so many of our second halves
8 are like a street relief, so now you could have a bus arriving at
9 52nd Haverford at 2:00 and the bus is expecting -- the operator is
10 expecting to be relieved and there's no one there to relieve him
11 or her. You know, now you're left hanging in an even worse
12 fashion.

13 Q. Okay.

14 A. Because with a miss, you may have someone on report, that is,
15 oh Steve, so and so -- Mike didn't show up; you can take his work
16 out. Ideally --

17 Q. Yeah.

18 A. -- you have somebody; you know, you don't always have someone
19 (indiscernible). But, when it's a second half miss, you don't
20 even have that opportunity.

21 Q. Yeah.

22 A. So, it's -- there's a logic to it.

23 Q. Let me give you a scenario. If someone comes back from the
24 first run, the first half --

25 A. Right.

1 Q. -- feels ill, and reports I'm feeling bad, I don't think I
2 should be driving the second half, what happens in terms of points
3 and in terms of --

4 A. Well, they could elect to go in the sick book, and then
5 following that, they can elect either to have the illness approved
6 for family medical leave or not, or they could ask -- and, you
7 know, this is where you get between the lines -- or they could ask
8 to be excused --

9 Q. Right.

10 A. -- which happens.

11 Q. And --

12 A. And all of this is driven by the manpower, you know --

13 Q. Sure.

14 A. -- your ability to fill that piece of work. Now, we're --
15 the way I say it is -- because we went through a terrible manpower
16 problem last year and the way I was explaining it to consultants
17 was, you know, we're not here to play games, you know, you're
18 really here to solve problems. And I was telling the consultants
19 that here's a hidden problem that's not in any of these books and
20 it is if you -- and it was because of the manpower problem -- if
21 you come to me say, look, can you just let me off? You know, I'm
22 not taking a personal day and I'm not taking a vacation day or I
23 don't want it to hit the sick book. If I -- if that run can go
24 out at time and a half, it'll -- you'll get off guaranteed. But,
25 when you're in a situation where someone wants to be between the

1 lines, can you just excuse me, and if the result is that piece of
2 work is not going out, I can't do it. And I spend a lot of time
3 speaking with the consultants about what that does to morale, and
4 it's a very important tool for a district manager to have the
5 ability to do that. I mean, it affects the climate, you know, the
6 morale of the location. Well, yeah, I went back and, you know, I
7 wanted to get off my second half because, well, today is my
8 grandson's birthday. I'd like to be there and I'm scheduled to
9 work, but I don't want to use a whole vacation day. And it means
10 a lot to the operators when you can (indiscernible) work, but you
11 need to be able to cover it, you know.

12 Ordinarily, we really don't hesitate to -- if it means paying
13 time and a half, you know. You don't have so much pressure on you
14 like to -- we -- I've been at other properties where they
15 physically are told you've used up your overtime budget; you can't
16 -- and they're holding -- I was in Baltimore last year. They have
17 runs and I'm going out on the street every day because at some
18 point in the fiscal year they're used up their overtime budget and
19 it's not a good situation, very, very difficult situation with
20 morale, with running your business, and it's just, you know -- we
21 don't have that restriction. No one's coming to me and said,
22 yeah, Jimmy wants me on at a time and a half. You may have to
23 explain yourself, but, you know, it's your explaining yourself to
24 someone like Michael (indiscernible), you know, who's so very
25 reasonable.

1 Q. Okay. I asked you earlier. I want to pursue other ways
2 someone accumulates points besides missing work. If there are
3 incidents -- we heard that damage to mirrors is semi-common. If
4 someone's operating and -- let me back up. How else can someone
5 accumulate points besides attendance?

6 A. It is very strictly segregated. When we say attendance
7 points, that's what that means a hundred percent.

8 Q. Okay.

9 A. Yeah. There's no other way. It's --

10 Q. So --

11 A. -- except through attendance.

12 Q. So, points -- is there a separate point system in terms of
13 performance or disciplinary actions due to performance?

14 A. Well, you're close, but it just -- it doesn't boil down to
15 points; it's -- the way we say it is that there's three tracks.
16 You know, your career is essentially -- and in rail, it's really
17 four. There's four areas where -- of your performance that, for
18 the most part, do not intermingle --

19 Q. Okay.

20 A. -- performance; safety; attendance; and in the case of a rail
21 operator, signal violations, because it's -- let's just say you
22 have an accident and there's a penalty for having had a chargeable
23 accident. That -- signal violations are separate and distinct
24 from that. So, all -- they don't really intermingle.

25 Q. Okay.

1 A. There's an instance where they do if you want me to really
2 confuse you.

3 Q. Well, if someone --

4 A. But, for the most part, for what you were getting at, like,
5 there's no other thing, like a mirror job or something, that will
6 give you attendance points.

7 Q. So, the 20 points that we've been discussing that is just
8 related to the attendance --

9 A. Correct.

10 Q. -- and I'm wondering --

11 A. That's all it's related to.

12 Q. Right.

13 A. -- and the other side when we talk about the one and the 5-
14 day and the discharge with dignity, every time that occurs, you
15 have 10 points removed.

16 Q. I see.

17 A. So, you had 20 points, you come in to see me, you have 3
18 years on the job, you get a one-day suspension, and, again,
19 there's no -- you don't lose a day's pay; it's just in name only.
20 And then when you go in the computer and note Steve has a one-day
21 suspension, then your point set will automatically gets reduced to
22 10.

23 Q. Okay. You had mentioned earlier that the violations happen
24 more commonly to newer employees?

25 A. If I -- I hate guessing, but if I had -- my experiences with

1 people with greater than 5 years on the job or something, they
2 just, the settle in. Because it's, you know, it's very demanding
3 and it's a lifestyle. It's almost like a whole lifestyle of
4 choice. I mean, we all talk about that it's demanding and we all
5 did it. I mean, everybody you're dealing with here is a bunch of
6 old bus drivers. I drove a bus for 10 years and Mike Liberia
7 drove a bus, Mike Lyles drove a bus, Ryan drove a trolley. But,
8 there's no other job that I can think of that's quite like it
9 where you're new on you're on the -- you've heard people saying
10 you're on the slate. So, you're on the slate and, you know,
11 you're 25 years old and your friends are going out tonight and
12 they say are you coming out tonight; it's Saturday. Well, I'll
13 tell you after 2:30 because I don't know what I'm doing tomorrow
14 until 2:30, and then I'll let you know. And when I was 25, if my
15 friends were going out, I might get sick. So, with the newer
16 people, it's, again, it's a lifestyle that's very demanding and I
17 really think, for the most part, we grow into it; we grow into
18 becoming like early-to-bed type people and very settled and it
19 sort of just works itself out, and it just comes with age too.

20 Q. Right. So, age and experience --

21 A. Sure.

22 Q. -- you know, for --

23 A. Yeah.

24 Q. So, for those over the 5-years at a more mature age, it's

25 --

1 A. And, you get, you know, you get conditioned, you get
2 conditioned to the job and it's, it is a, it's a culture. I'd say
3 (indiscernible) is its own culture. I mean, you know, usually you
4 go to a job and you -- they tell you what shift you're working --

5 Q. Okay.

6 A. -- you know, but this is a job where I can elect to work
7 anything from coming in in the -- you know, with seniority; it's
8 all seniority based, you know having the swing in the middle of
9 the day or I can elect to work at night. I like working at night
10 and I like working real early in the morning. And I worked mid-
11 days the whole time I was a regular operator. I liked coming in
12 -- I got the kids off to school, then I would drive the Southern,
13 drive my bus, and I got home at -- I got done at 7:00 every night
14 or 7:30, but I didn't start till after 10:00 and that fit my
15 lifestyle. I -- it's very peculiar. Not many people have they
16 can just choose their work hours, you know. Or, you can choose --
17 you can elect to work 8 hours or day or you can elect to work 11-
18 hour pay hours and every day in your pay is 3 hours of time and a
19 half in your daily pay. That's -- so, 3 hours a day at time and a
20 half is 5 hours pay -- almost 5 hours pay times 5. That's 25
21 hours extra in your pay every week, like, almost 4 days work -- or
22 3 days extra days work in your pay every week. And you get this
23 spread of people that just want to do their 8 hours and other
24 people have a shore a home and they're planning a new car every 4,
25 5 years. It's a -- I think it's a very unique place to work, but

1 we ask a lot of our people in return, you know. With swings, I
2 mean, you're giving us your whole day, you know. You're not going
3 anywhere after work. You're going home and eating dinner and
4 going to bed, you know, so you be back in here at 5:00 tomorrow.

5 Q. Um-hum. Have there been significant changes to the point
6 systems in the recent years?

7 A. I alluded to what something that Ron and I had worked on
8 codifying really nailing down this idea of I took the day off;
9 it's my right to work. They can't be denied it and it's codified;
10 it's uniform everywhere now. Now, I'm working on my day off
11 Thursday for straight time. That was always like a practice, but
12 just like a year ago we nailed it down where it's the same
13 everywhere, totally consistent. But, as far as the labor
14 agreement we haven't had any -- I mean, I'd have to wreck my brain
15 to --

16 Q. Right.

17 A. Anything -- I don't -- we don't -- nothing different last --

18 MR. NEWMAN: '98 it changed?

19 MR. ROGERS: Hum?

20 MR. NEWMAN: '98 it changed.

21 MR. ROGERS: Yeah, there you go.

22 MR. NEWMAN: It used to go to 25 points --

23 MR. ROGERS: Right.

24 MR. NEWMAN: -- but it -- then it dropped down to 20.

25 MR. ROGERS: Yeah. So, 18 years, there's been no changes.

1 BY DR. JENNER:

2 Q. Um-hum. How -- from what you hear directly from the
3 employees, how are they embracing the system? And again, everyone
4 looks at the world differently, but what concerns do you hear from
5 them? Or, is -- do you think there is -- are they embracing the
6 system or what concerns do they have?

7 A. Well, see -- and I think at the -- I don't like to give you a
8 quick answer, but I think they do because I think that's where I
9 arrive at that it's a culture. And once it gets -- it gets in
10 their blood and it's -- you could just see that they like it. I
11 think they have a very difficult job and handling a bus on the
12 street with the public has become more difficult. But, as far as,
13 like, the logistics of the job, the work rules and the
14 expectations, I think do embrace it.

15 Q. Okay. Do you have any plans to make modifications to the
16 system in the future?

17 A. No. We just negotiated a brand new contract that will be in
18 effect for the next 5 years, so there's no plans to change
19 anything.

20 Q. Terrific. That's all the questions I have. We're -- I'm
21 going to send it around the room.

22 Do you have any to my left?

23 BY MR. DOLBIN:

24 Q. Just some points. This is Rick Doblin, D-O-B-L-I-N, with
25 PennDOT SSF. Just some points of clarification. Every call-off,

1 as you described, you must call off every time?

2 A. No.

3 Q. If I'm scheduled --

4 A. But, there is a -- good question.

5 Q. If I'm scheduled today, I'm required to call you sometime
6 before I -- my shift, but if I don't, I didn't hear if you said
7 what happens if I don't.

8 A. There's two different sets of rules. If I'm calling out
9 because I'm ill, then I'm ill until I call you back. And just to
10 give you the finer point, I have to call you before 12:30 to work.
11 If I wanted to work tomorrow -- I've been out sick all week, but I
12 only made one call to tell you I am sick and they've been tracking
13 me, carrying me as sick, but now it's been 5 or 6 days, whatever,
14 and I want to work tomorrow, come back to work. I have to call
15 before 12:30 p.m., and the reason for that is -- you heard me
16 allude a moment ago to the young person going I don't know if I
17 can go hang out tonight; I'll tell you at 2:30. Well, they have
18 to call before 12:30 because that's -- they're making up
19 tomorrow's work --

20 Q. Right.

21 A. -- between 12:30 and 2:30 -- well, it gets posted. It has to
22 be completed and up by 2:30, so you've got to call before 12:30 so
23 that they'll know not to fill your run, you know. Mike's been
24 getting assigned my run all week. Well, they know now you're not
25 going to get it tomorrow because I'll be back. The different rule

1 is if I take an emergency at home. Emergency at home is day to
2 day. That is, you would have to -- that is a one-day turn-in.
3 So, if I had a terrible problem at home, you now, something went
4 bad with my plumbing or something and I just couldn't get it
5 resolved in one day, I would have to call the next day to -- or
6 call sometime and say I'm taking an emergency at home again
7 tomorrow.

8 Q. So -- and I think I understand, but I just want to make sure.

9 A. Sure.

10 Q. I'm just trying to clarify. I'm going to -- my shift starts
11 today at, say, 10:00 --

12 A. Yes.

13 Q. -- in the morning. If I'm -- I'm required to call you
14 tomorrow or the day before by at least 12:30 so that you can
15 schedule somebody?

16 A. No. No, you're not required to call the stay out, sir;
17 you're required to call before 12:30 to say you're returning.

18 Q. Oh.

19 A. In fact, we get people that -- I called at 6:00 this morning,
20 but it was, say -- I don't know; whatever. You knew you're
21 probably going to be okay -- you feel like you're going to be okay
22 tomorrow. You just don't feel well and you called at 6:00 a.m.
23 Well, you may call back at 10:00 or 11:00 and say take me out of
24 the book for tomorrow, you know; I'll be okay by tomorrow.

25 Q. So, my shift starts today at 10:00 --

1 A. Um-hum.

2 Q. -- I'm required to call you at some point before 10:00 or
3 come to work?

4 A. Correct.

5 Q. If I don't come to work, I get two points?

6 A. Without a call?

7 Q. Right.

8 A. Well, if you don't --

9 Q. I'm just trying to get it clarified. I think I heard that.

10 A. If you don't come to work at all --

11 Q. If I don't show up, I don't call, and --

12 A. And we don't hear from you --

13 Q. And you don't hear from me.

14 A. Well, then you're AWOL --

15 Q. Okay.

16 A. -- and that's 10 points.

17 Q. Ten points?

18 A. Yeah.

19 Q. Okay. So, then my next shift the next day is 10:00, I do
20 call and say I got real sick yesterday, but I want to take off
21 today, is that --

22 A. Then at that moment they would put you in the sick book.

23 Q. So, now I go to the sick book? I'm two --

24 A. Yeah.

25 Q. -- and that's two points?

1 A. If you don't get it approved, yeah.

2 Q. I always (indiscernible), but the other, my other question
3 is, or one of the other questions is as I do call in, following
4 the procedure, I always have up to 15 days to go get a doctor's
5 note to back me up?

6 A. Well, that's not quite specific.

7 Q. Once again --

8 A. I have 15 days to get a request for family medical leave and
9 have a doctor complete that and submit it.

10 Q. So, I'm scheduled to start at 10:00 today, I call you at 6:00
11 this morning and say I've got a bad cold, it just came on --

12 A. Right.

13 Q. -- I want to be on the book; put me on the book, that does
14 count for two points --

15 A. Correct.

16 Q. -- but if I go see my doctor and he --

17 A. Well, now -- but, not every condition warrants -- because the
18 law says it's a serious medical condition, so I can't tell you if
19 a cold would qualify.

20 Q. We had a whole bunch --

21 A. Migraines qualify --

22 Q. Bronchitis, if you get bronchitis (indiscernible) --

23 A. Oh, yeah, that would certainly --

24 Q. -- the doctor has given you --

25 A. Yeah.

1 Q. -- a good prescription.

2 A. Yeah.

3 Q. Within 15 days, I go and show you that doctor's information,
4 then you would retract those two points?

5 A. Yes.

6 MR. NEWMAN: That's not the way it works.

7 DR. JENNER: Let's get some clarification.

8 MR. NEWMAN: That's not the way it works.

9 MR. ROGERS: How would it work?

10 MR. DOLBIN: Just when --

11 DR. JENNER: Just identify yourself.

12 MR. NEWMAN: Ron Newman, N-E-W-M-A-N, TWU Local 234 Business
13 Entity. I call the district today and tell them put me in the
14 sick book. I'm in the sick book until I call back. If I call
15 back after the fourth date because I'm not available for work on
16 the fifth date, before I return to work --

17 MR. ROGERS: Well, that's -- I was going to speak on that.

18 MR. NEWMAN: All right, but you brought up 15 days.

19 MR. ROGERS: Just for FMLA.

20 MR. NEWMAN: Right. That's different than --

21 MR. ROGERS: Right.

22 MR. NEWMAN: -- what I think they're talking about. They're
23 talking about just turning in sick. It had nothing to do with
24 family medical leave, and they're only going to apply family
25 medical leave if I put in sick papers.

1 MR. ROGERS: Um-hum.

2 MR. NEWMAN: If I don't put in sick papers, family medical
3 leave has nothing to do with this, right? If I don't put -- never
4 put in sick papers, family medical leave has nothing to do with
5 this and I (indiscernible).

6 MR. ROGERS: No, that's not correct.

7 MR. NEWMAN: Yes, it is.

8 MR. ROGERS: Well, then you'd never get approved for other.

9 MR. NEWMAN: No. When I turn in sick, I can stay out for
10 this whole month. I call them up and say take me out the sick
11 book. Before I return to work, I have to bring my doctor's note,
12 all right --

13 MR. ROGERS: Um-hum.

14 MR. NEWMAN: -- that says I'm able to return to work. I
15 never filled out sick papers, so family medical leave is not
16 involved.

17 MR. DOLBIN: So, it's --

18 MR. ROGERS: I was going to get to that.

19 BY MR. DOLBIN:

20 Q. So, the --

21 A. That's part II.

22 Q. The doctor -- so, in my case in my scenario, I'm scheduled to
23 work at 10:00. I call you at 6:00 and say, hey, I've got this
24 thing going on. You put me in the book --

25 A. Um-hum.

1 Q. -- and you give me two points --

2 A. Um-hum.

3 Q. -- and then I -- it's my job to call you when I want to come
4 back --

5 A. Correct.

6 Q. -- and it could be a number of days? When I do come back and
7 I give you a doctor's note that said, yes, he did have bronchitis,
8 you'll deduct the two points?

9 A. No.

10 MR. NEWMAN: No.

11 MR. ROGERS: That's why I said --

12 BY MR. DOLBIN:

13 Q. Okay.

14 A. That's why I went into the family medical leave explanation.
15 That's part I. That answer is --

16 MR. NEWMAN: The doctor's note is going to tell you --

17 MR. DOLBIN: Well, you've got to --

18 MR. NEWMAN: -- what I have.

19 MR. DOLBIN: But, you've got to tell him why.

20 MR. NEWMAN: The doctor -- you're the dispatcher. When I
21 bring you a doctor's note, it's not going to tell you what I have
22 because you're not supposed to know anyway. I'm in the sick book.
23 I might tell you I'm sick or I might have diarrhea. That's what
24 they write down.

25 BY MR. DOLBIN:

1 Q. Does that get submitted to this third-party consultant to
2 have them diagnose it?

3 A. It's apples and oranges.

4 Q. Okay.

5 A. Just let me make the distinction. Everything I was
6 describing is it's --

7 Q. That's what I was unclear on.

8 A. -- you get a request. The form is a request to get family
9 medical leave; that's all that is, and you can elect to do it or
10 you can elect not to do it.

11 Q. If --

12 A. What Ron's -- what I was working up to is there's a -- it's
13 required in the contract that if you're out greater than 5 days,
14 you have to have a note to return to work. In other words, the
15 thinking is you were ill enough that we need a doctor to sign off
16 that you're well enough to come back. That's what Ron's talking
17 about.

18 Q. So, the distinction between here -- and that's when my -- I
19 read the thing that you said about family -- FMLA. FMLA, just
20 further clarification, is something separate --

21 A. Correct, correct.

22 Q. -- you have a child or parent or somebody --

23 A. Right.

24 Q. -- that's in extenuating circumstance --

25 A. Or yourself.

1 Q. -- that -- or yourself --

2 A. Um-hum.

3 Q. -- but the doctor agrees with you and that would make you
4 basically exempt from the point system?

5 A. Correct.

6 Q. And --

7 MR. NEWMAN: For a certain length of time.

8 BY MR. DOLBIN:

9 Q. For a time. If --

10 A. Um-hum.

11 MR. NEWMAN: Because --

12 UNIDENTIFIED SPEAKER: Exempt from the points system?

13 MR. ROGERS: From the point system.

14 UNIDENTIFIED SPEAKER: Right. Okay.

15 MR. ROGERS: Well, and other things too.

16 MR. NEWMAN: For certain length of time.

17 MR. DOLBIN: For a length of time.

18 MR. ROGERS: I mean, those absences could never be referred
19 to --

20 MR. DOLBIN: Six months, 12 months, but that needs to be --

21 MR. ROGERS: You could put in for a job and the requirements
22 for the promotion are you could only have so many sick turn-ins.
23 FMLA turn-ins do not count.

24 UNIDENTIFIED SPEAKER: Okay.

25 BY MR. DOLBIN:

1 Q. So, it's a different (indiscernible)?

2 A. different animal.

3 MR. NEWMAN: Family medical leave is only for 12 weeks, all
4 right, but Sam's still out and I'm still not ready to return to
5 work and I've run out of family medical leave. When I come back
6 to work, I've got two points.

7 MR. ROGERS: Correct.

8 MR. DOLBIN: So, from -- for this example in this situation,
9 FMLA is really not an issue; it's just something -- another part
10 of your system that is there?

11 MR. NEWMAN: Correct.

12 BY MR. DOLBIN:

13 Q. What I was interested in for this situation, the gentleman on
14 his first shift, I come -- let's -- back me up. I have a 10:00
15 shift start. I don't feel good, but I'm going to come to work
16 because I don't want to accumulate points. So, I come to work. I
17 don't feel good at the end of that first shift and I want to go
18 home or I want to ask to go home. I'm not feeling, you know, good
19 for the second shift. If I ask to go, do I get two points?

20 A. If you go in the sick book.

21 Q. If I go in the sick book.

22 A. Right.

23 Q. So, I can ask you though. Now, Dave, you gave an example
24 where I could come to the dispatcher and say I'm not feeling good
25 for my second shift; can I go home.

1 A. And that happens.

2 Q. And that happens. And if you had somebody available --

3 A. Yeah. See, let me give you --

4 Q. -- on site --

5 A. This is good because it is common enough.

6 Q. But, you would approve me to go home if I felt sick if
7 somebody was available, but you may not approve it if you didn't,
8 is that correct?

9 A. Correct, because you always have the opportunity to go in the
10 sick book. But, what happens is, you know, a couple of times now
11 I've referred to these people on the slate. Well, what happens is
12 when there's no work for them -- they're guaranteed 8 hours. They
13 get a report and they come in and sit. They're -- that's who is
14 sitting when I'm saying they can hand a piece of work to somebody.
15 Well, what happens is when they don't have -- but, if all the IM
16 work is covered, we give 12:30 reports and a person with a 12:30
17 report can be sitting -- sits or 4 hours. So, they're going to
18 sit from 12:30 to 4:30 and I have this occur. So, you come in and
19 you go, look, I just, you know, I'm not feeling right; you got
20 anybody to cover this? Yeah, I have somebody on report, a 12:30
21 report, you know; I can excuse you.

22 Q. And it would be excused; it wouldn't go on a --

23 A. No.

24 Q. It wouldn't count any points?

25 A. No.

1 Q. But -- and do you know if -- and I'm asking your opinion; I'm
2 not sure if you'll answer. Do you know if that happens regularly?
3 It's wintertime at the moment and there's a lot of colds and flues
4 in my business and a lot of that is going around.

5 A. Well, again, see, it's -- you can't give like a one-size-
6 fits-all answer because there is this much variation. You -- we
7 have nine operating locations and you can have an operating
8 location that's having difficulty on a good day getting all the
9 work covered and you can have another location where there's not a
10 lot of retirements and not a lot of activity and they've got
11 people on report that they're looking for work for. I mean, there
12 can be that much variation among the nine locations.

13 Q. What about even during a shift? If I'm feeling sick during a
14 shift -- and I think a shift, you said, takes 5, 6 hours -- then I
15 call in say, hey, I'm really feeling bad; can you find somebody;
16 is there a way to -- you know, I'm not feeling like I can make the
17 second shift, is that common?

18 A. Well, again, it's the same thing. You know, depending on the
19 parameters. And see, the average person -- I did a study once on
20 the average person. The average person has like six points.

21 Q. Okay. So, it doesn't --

22 A. You know, so, like, if I'm an average person, if I'm one of
23 those average people, you know, I'm sick, you know, and, okay, so
24 I'm going to have eight points, and then in a month, it'll be back
25 down to six.

1 Q. And it is legitimate. I mean --

2 A. Yeah.

3 Q. -- people do get sick.

4 A. Yeah. But, this was like 3 years ago. They were asking me -
5 - it might have been last contract -- what's the average number of
6 points that people are carrying, and it was like four or six.

7 Q. Okay, that's good to know. Okay.

8 MR. NEWMAN: But, it's different on the street because the
9 control center don't control what the districts do.

10 MR. ROGERS: Correct.

11 MR. NEWMAN: If I'm walking -- if I'm driving down the street
12 and I'm not feeling good and I call control center and I tell them
13 that I'm feeling ill, control center will tell you you have to go
14 in the sick book.

15 MR. ROGERS: Yeah.

16 MR. NEWMAN: They don't have that discretion of saying --
17 because they can't see you.

18 MR. ROGERS: Well, you're telling them you're sick. I mean,
19 there's a certain --

20 MR. NEWMAN: So, I'm going -- but, I'm going --

21 MR. ROGERS: -- there's a certain logic to it.

22 MR. NEWMAN: Right, but I'm going into --

23 MR. DOLBIN: Let's assume for this example that I'm driving a
24 trolley and I've got a real bad cold, but I came to work and I
25 tried to push through it and I don't feel like I can make the

1 second shift. Would it be -- would I have the comfort to know
2 that I could call in and somebody would take care of me or should
3 I just --

4 MR. NEWMAN: You would call in and you'd go in the sick book.

5 MR. ROGERS: Yeah, right.

6 BY MR. DOLBIN:

7 Q. Yeah. And --

8 A. And I get --

9 Q. -- say --

10 A. See, we get -- I have to check the control center log every
11 morning and it's not uncommon. A week doesn't go by where you'll
12 -- they just code sick off street.

13 Q. Okay. You asked -- or talked about marking off or swapping
14 shifts. I could call in and say I don't want to come today, but I
15 can come on my day off.

16 A. Well, but it's just expressed a little differently. You're
17 getting to the crux of it, but -- I don't feel well enough to come
18 to work on Sunday. Then you can inform the dispatcher, I'm going
19 to work on Tuesday, Wednesday, Thursday, Friday, whatever; I'm
20 going to work straight time. They say it's straight time because
21 it's not at time and a half because it'll be a fifth day. And
22 it's -- I don't want to complicate it, but you can tell us you're
23 working on one of your days off and you're actually not -- you go
24 to the top of the list.

25 Q. Is it -- my question on that is it's an option available --

1 again, last scenario. Ten o'clock start. I'm not feeling very
2 well. I can call in and say put me in the sick book or I can call
3 in and say mark me off or swap me. I'm normally a Tuesday day
4 off.

5 A. Well, you --

6 Q. I'd like to swap --

7 A. Yeah.

8 Q. -- today for Tuesday.

9 A. Well, you just wouldn't put that way. You'd say I'm sick,
10 but I'm going to work on my day off, and you'd tell him
11 (indiscernible).

12 MR. NEWMAN: Tell them (indiscernible).

13 MR. ROGERS: -- and that would be an approved

14 BY MR. DOLBIN:

15 Q. And that would be an approved --

16 A. Yeah.

17 Q. -- or accommodated?

18 A. Oh, that was -- that's a --

19 Q. Is there -- and my question there is there any limits to the
20 number of times you can do that?

21 A. No. That's actually (indiscernible) to what I had. Because
22 I had Steve at Connolly saying you could do it a half dozen times,
23 and I had Mike at Southern saying I don't see any reason why there
24 should be a limit, you know, you had Ron in Allegheny saying twice
25 is enough.

1 Q. Okay.

2 A. Yeah. It's funny you brought that up.

3 Q. I didn't even know that.

4 A. But, it was good. It was -- you bring stuff to a head and
5 it's -- you're the better for it.

6 Q. And my next question then relates to the second half miss.
7 If I run my first shift, but I don't feel like -- I just call in
8 and -- but I would get two points for that; I'd be in the book?

9 A. Yes.

10 Q. Or, I would come back to the stake or --

11 A. Yes. We've actually gone outside, way outside the labor
12 agreement --

13 Q. (Indiscernible).

14 A. -- quite recently though with FMLA. You guys have got to be
15 quick studies if you're absorbing all this because I know how --

16 DR. JENNER: We're (indiscernible).

17 MR. ROGERS: -- because I know convoluted it is. But, you
18 heard me speak a lot about you have to be on the book by 12:30, so
19 here's the deal. Ordinarily, that's the deal, okay? And if I hit
20 the sick book at 1:00, I can't work tomorrow because it's after
21 12:30 and they're going to fill my run and so forth. Well, part
22 of the agreement we've reached is someone that's approved for FMLA
23 -- I'm approved for bronchitis. This is way outside the labor
24 agreement -- it's -- because we did it this way forever about this
25 12:30 business. If you're approved for FMLA -- I have

1 intermittent approval for my bronchitis. We actually agreed to
2 something in this year, '16, or late '15, that I could call up in
3 the morning and say I'm not feeling well. I'm in the sick book
4 and I -- my bronchitis flared up. But, I know when I do the
5 inhaler, I'm going to feel okay in a couple of hours. So, we just
6 started this, say, 12 months ago. I -- I'm going to work my
7 second half. You're -- if you were sick, you were sick and you
8 could come out of the book for tomorrow, but you weren't working
9 today. So, we came to an agreement that someone can call out and
10 go out FMLA for their first half. Or, my son's got asthma and I
11 know I'll be able to get him together in 2 or 3 hours; I'll be in
12 at 2:00 for my second half. So, that was big. Like, when you say
13 change, well, there's been no changes here, since, like Ron said,
14 since '98, but that was a major, major change for us.

15 MR. NEWMAN: Well, that's just for family medical leave.

16 MR. ROGERS: Right.

17 MR. NEWMAN: I don't have to call up and say I need family
18 medical leave for myself for bronchitis. I work a swing run; I'll
19 be in for my second half. So, I don't get no points for the --

20 MR. ROGERS: Right.

21 MR. DOLBIN: Yeah.

22 MR. NEWMAN: -- family medical leave reason for my first half
23 and I worked my second half.

24 MR. ROGERS: That was a big change.

25 BY MR. DOLBIN:

1 Q. But, I think in this case it's more about feeling ill or
2 being sick and if I didn't feel -- in my example, you know, if I
3 don't feel like I can make the second one and I call you and
4 notify you, but that's still two points?

5 A. Yes --

6 MR. NEWMAN: Yes.

7 MR. ROGERS: -- if you don't get it approved.

8 MR. DOLBIN: All right. I have one other -- I'm good. I
9 guess that's it then.

10 DR. JENNER: Okay, great.

11 We'll go around.

12 Ron, you have an opportunity to ask questions or any
13 clarification.

14 MR. NEWMAN: Ron Newman, N-E-W-M-A-N. Just for
15 clarification, the contract book is very complicated when it come
16 to the point system. There's a difference between calling out for
17 family medical leave, which is the law, and our contractual
18 negotiated items, which is the point system. Dave said if I call
19 out today, before my shift starts -- I can call out anytime before
20 my shift starts. I could be one minute before my shift starts; it
21 could be 10 seconds, if my clock matches SEPTA's clock, before my
22 shift starts, I can call out. I'm going to get two points for that
23 one sick turn-in. I can only swap my day if it's only for this
24 single turn-in. Because I can call in and say put me in the sick
25 book and, at the same time, put me in the book for one of my days

1 off to work overtime -- I mean, to work straight time, if they
2 give me straight time. Because it rarely happens because we have
3 a lot of overtime, but if they -- I have no overtime, if there's
4 no overtime work, then I don't get no work, then I'm going to keep
5 that two points because I wasn't able to work my day off at
6 straight time because they didn't have anything to work. It
7 doesn't -- it rarely happens because we have a lot overtime, but
8 you can do that at the same time that I put myself in the book.
9 If I put myself in the book, I tell them put me in the book for
10 straight time on my day off. I can also come out the book at the
11 same time because, technically, I'm turning in for that day. So,
12 if I turn in at 10:00 and I say put me in the book and take me out
13 the book, because I came out before 12:30 that same day, I'm able
14 to work the next day. But, if I don't and I say put me in for
15 straight time on my day off and I get it, to points come off.
16 It's a little complicated when, you know, you have to go through
17 all this stuff.

18 This miss part, Dave's correct. If I show up late for my
19 shift, as long as it's less than 4 hours, I get two points.

20 MR. ROGERS: Five.

21 MR. NEWMAN: I mean, five points. If it's more than 4 hours,
22 I get six points. If I miss on my second half, like, I work my
23 first half, but then I missed on my second half, I get seven
24 points, and if I don't come in at all, it's 10 points. It gets
25 complicated. And like -- but, Dave is right. When you work 30

1 days straight without a sick turn-in or a miss, the two points
2 come off. If I'm --

3 MR. ROGERS: Well, I'm going to interject. I want to make it
4 even more complicated. After 6 months, you start getting three
5 off a month.

6 MR. NEWMAN: I wasn't getting ready to say that too. It
7 depends --

8 MR. ROGERS: Six months of good behavior --

9 MR. NEWMAN: Yeah. If I work up to 6 months, at the
10 beginning of the sixth month, if I'm one that has a lot points,
11 three points start coming off every day for every 30 days I never
12 turned in.

13 DR. JENNER: Can you go less than zero points?

14 MR. NEWMAN: You can't go less than zero.

15 DR. JENNER: Okay.

16 MR. NEWMAN: You can only go --

17 DR. JENNER: If you could bank points, that would be nice.

18 MR. NEWMAN: You can only go to zero.

19 MR. ROGERS: Don't give them any ideas.

20 DR. JENNER: Yeah, I know.

21 MR. NEWMAN: That's a good point though. But, you know, it's
22 the best system around because you've got a lot of rope.

23 MR. ROGERS: Tell them how many sick days they get a year.

24 MR. NEWMAN: You get 60 sick days a year. When you first
25 start --

1 DR. JENNER: How many was that?

2 UNIDENTIFIED SPEAKER: Sixty.

3 MR. NEWMAN: When you first start, once I finish training and
4 I'm now an operator, the first 6 months that I'm here, I get 30
5 days of sick time. The 6 months, I get another 30. The third 6
6 months, I get another 30. The fourth 6 months, I get another
7 thirty. So, within 2 years, I have 120 sick days if I never used
8 it. On the third year, my anniversary, you pick them up at 60 at
9 a time and they accumulate. If you never use them, you have them.
10 Like I go to -- I've got over 1800 sick days.

11 MR. DOLBIN: May I ask -- for the record, Rick Dolbin. Is
12 that -- you refer to them as scheduled sick days or is that a paid
13 day? This -- these days that we've been talking about here, you
14 now, calling off, am I still paid when I get called off based on
15 this accumulated sick leave you're talking about?

16 MR. NEWMAN: No. Well, technically, yes, but you're not paid
17 until the third day you're out sick, once you're out 3 days or
18 more.

19 MR. DOLBIN: So, these accumulated sick days you just
20 described, if I call in for my shift at 10:00 because I'm feeling
21 ill and I take the third or fourth day off, then those start
22 taking into account?

23 MR. NEWMAN: This is where it gets complicated again. If
24 you're out more than 3 days, in order for you to get sick pay, you
25 have to turn in sick papers so they'll know that you're out sick

1 and you'll start getting paid --

2 MR. DOLBIN: It would be for --

3 MR. NEWMAN: -- for that point forward. But, you have to be
4 out 3 or more days in order to start getting --

5 MR. DOLBIN: So, that's not necessarily with pay
6 (indiscernible)?

7 MR. NEWMAN: Right.

8 MR. ROGERS: Yes.

9 DR. JENNER: This is Steve Jenner. Is there -- besides sick
10 days, is there any type of -- in the government where we call it
11 annual leave -- you know, vacation days --

12 MR. NEWMAN: Yes.

13 DR. JENNER: -- or is that separate from sick days?

14 MR. ROGERS: It's separate.

15 MR. NEWMAN: It's separate.

16 MR. ROGERS: And personal days. Five personals a year and --

17 MR. NEWMAN: Or four?

18 MR. ROGERS: Four?

19 MR. NEWMAN: Yeah.

20 MR. ROGERS: -- and you get 2 weeks, until you have 5 years
21 on the job, vacation. Two weeks' vacation when you walk in the
22 door. After 5 years, you get a third week. After 10 years, you
23 get a fourth week --

24 MR. NEWMAN: Thirteen.

25 MR. ROGERS: Thirteen to get the fourth week.

1 And how many to get the fifth week?

2 MR. NEWMAN: Twenty-three.

3 MR. DOLBIN: And those are days that you would use to
4 schedule? To make it out the book, I'm going to go vacation next
5 week. I'm telling you soon so that you could make your --

6 MR. NEWMAN: Well, we --

7 MR. DOLBIN: -- report up?

8 MR. NEWMAN: Ron Newman from TWU. You pick your vacations.
9 Like, the pick vacations in December for the following year. So,
10 the authority knows what vacation weeks --

11 DR. JENNER: I'm sorry. Somebody's phone is tripping.

12 MR. ROGERS: That's mine. It's --

13 DR. JENNER: Can you -- would mind turning that off --

14 MR. ROGERS: Sure.

15 DR. JENNER: -- the sounds on that please? I'm sorry. We're
16 just trying to (indiscernible) the transcription as we've people
17 talking from different angles.

18 So, thanks for identifying yourself. Please continue.

19 MR. NEWMAN: Ron Newman, TWU. Once you pick your vacation,
20 the authority knows what weeks you're taking the vacation. So,
21 that's scheduled. You can't -- you have to take your vacations
22 here; you have no choice. You have to take them.

23 MR. ROGERS: Come on.

24 MR. NEWMAN: You're (indiscernible).

25 MR. ROGERS: Dave Rogers. We change them all the time at

1 their request.

2 MR. NEWMAN: Oh yeah. I mean, but you still have to --
3 you're still required to take a vacation; that's all I'm saying.

4 MR. ROGERS: Yes. You're --

5 MR. NEWMAN: Still --

6 MR. ROGERS: You can't bank it or --

7 MR. NEWMAN: You can't bank it.

8 MR. ROGERS: All you -- Dave Rogers. After a certain --
9 after you have 3 weeks, you can sell one back.

10 MR. NEWMAN: Oh well, but that's, you know --

11 DR. JENNER: Okay, well --

12 MR. DOLBIN: It's not this situation.

13 MR. ROGERS: Right, right.

14 DR. JENNER: Yeah. Thank you.

15 MR. HOEPF: Okay, Ron, do you have any more questions?

16 MR. NEWMAN: No, I'm good.

17 MR. HOEPF: Okay, thanks for the verification.

18 MR. NEWMAN: Yep; no problem.

19 MR. HOEPF:

20 Q. Okay. This is Mike Hoepf with the NTSB. So, just to
21 continue on, I just a couple of quick pointers of clarification.
22 I think we've, you know, covered the waterfront pretty well here.
23 So, you were talking about pay before. So, if somebody's sick and
24 they call in; and let's just say they have a cold and it's not too
25 terribly serious, but, you know, they just need the day off, so do

1 they get paid for that day?

2 A. No.

3 Q. Okay. So, if nothing else happened and they just came in for
4 the next scheduled day, they would just have, they'd have two
5 points and they wouldn't have been paid for that day?

6 A. Correct.

7 Q. Okay. Let's say --

8 A. But, they didn't take advantage of the other --

9 Q. They submitted and rescheduled.

10 A. Right.

11 Q. Okay. So, if they had 2 days in a row that they were sick,
12 they would be paid for neither day?

13 A. No.

14 Q. Okay. And they'd be to four points, assuming they didn't go
15 to the doctor and, no, they didn't reschedule.

16 A. No, it's two points for -- it's just two points.

17 Q. It's just two points, okay, so you could take 2 days. Okay.

18 A. You could take 60 days; that's two points.

19 Q. Okay. It doesn't matter how long it is?

20 A. It's each instance.

21 Q. Each instance?

22 A. Not the number of days; it's the occurrence.

23 Q. Okay.

24 A. One occurrence is two points. It could be a one-day turn-in
25 or it could be a 60-day turn-in and it's two points.

1 Q. Okay, okay. But, you're -- but you wouldn't get paid for
2 that second day either?

3 A. Correct.

4 Q. Okay. Now, the third day you're sick, still two points, no
5 pay?

6 A. Correct.

7 Q. Okay. I heard something about a request for a sick pay.
8 Does that come into play at some point?

9 A. Yeah. You would submit sick papers and after the third day,
10 you would begin to be paid.

11 Q. After the third day, okay.

12 A. Yes.

13 Q. Are there limitations to that? Is this that --

14 A. I believe it's limited to 6 months.

15 Q. Okay. And does that require a doctor's note?

16 A. It does -- yeah. There's a section on the sick benefits
17 application for the doctor to complete.

18 Q. Okay. Okay, great. So, speaking of the doctor, I wanted to
19 hit that again real quickly. So, to qualify and get your points
20 adjusted, you've got to go and see a doctor and have a doctor's
21 note verifying that you're sick, is that correct?

22 A. Well, verifying that it was a serious medical condition that
23 caused the absence.

24 Q. Okay. So, let's say that I have a cold and I call in sick
25 and let's say I go to the doctor and he says it's a cold and he

1 gives me some Tylenol. Is he going to give me a note that is
2 going to allow me to become -- is (indiscernible) --

3 A. Well, I think it flipped one end around and he may do -- be
4 -- of course, your doctor would be willing to do that. I can't
5 speak on -- like, when they say serious medical conditions, I'm
6 certain that there's certain maladies that they wouldn't deem that
7 they could authorize the absence for that's not a serious medical
8 condition. I don't know if a cold warrants that.

9 Q. And I don't want you to speculate.

10 A. No, I can't. Yeah. I --

11 Q. That's -- yeah, that's great.

12 A. Right.

13 Q. That's -- don't, you know, don't feel like you have to, you
14 know, (indiscernible) --

15 A. Yeah. Dr. Ernoff (ph.) could speak to that.

16 Q. Okay, okay. So, the doctor will make an assessment whether
17 or not this is --

18 A. Um-hum. Yes.

19 Q. Okay. But, let's say today you have a cold and you feel
20 better and you don't want to make a trip to the doctor because,
21 you know, it's not that bad; you're just going to have to take the
22 two points?

23 A. Correct.

24 Q. Okay. So, you said that the 20 points is for the attendance
25 and that's -- you sort of define that as one bucket, and then you

1 said there's also a bucket of performance, safety, and signal
2 violations, if applicable.

3 A. Correct.

4 Q. Can you talk briefly about those point -- are those also on
5 point systems? Do I have 20 points for my performance bucket, 20
6 points for my --

7 A. No, there's no points associated with any of that.

8 Q. Okay, that's entirely separate from the point system?

9 A. Yes.

10 Q. Okay. So, the only way that I can accrue points is calling
11 in sick, arriving late, or a no-call no-show? Are those the three
12 things that can happen where I can accrue points?

13 A. Or AWOL, or a pattern would generate would generate more
14 points.

15 Q. Okay.

16 A. Like, if I called off four Mondays and that would necessitate
17 a Monday pattern, they call it, and that would add four points.

18 Q. Okay. So, if I'm driving along and I hit a mirror and I
19 knock off somebody's mirror or -- I don't know -- some incident
20 happens on the road, that has nothing to do with this?

21 A. No.

22 Q. Okay. All right, so -- and last question actually for me, at
23 least for right now. So, when you're implementing this system, is
24 there a logic behind this point system? So, people aren't getting
25 paid if they're getting -- if they're calling in sick. Is there a

1 need to have this system so that people aren't just not showing up
2 to work? Is there some reason why people need to be penalized for
3 calling in sick?

4 A. Well, with those that do have difficulty coming to work, it
5 does influence some that come to work and the few that, like, go
6 down that horrible -- you know, the one day to 5 day, their
7 attendance can be really bad. I mean, you've got to picture
8 running a system where someone with 5 years on the job has 300
9 sick days and they used them all up and they're 26 years old.

10 Q. Okay. So -- yeah. All right.

11 A. Yeah.

12 Q. Well, thanks.

13 MR. HOEPF: Steve?

14 BY DR. JENNER:

15 Q. Okay, Steve Jenner. I just want to close the loop. When
16 someone goes to their private physician for a medical visit,
17 what's the process then? Who from SEPTA evaluates if that's a
18 legitimate excuse?

19 A. Now, are we talking about FMLA?

20 Q. We're talking that and we're talking (indiscernible).

21 A. It really is two separate things; that's why Ron spoke up
22 about that.

23 Q. Well, can you talk about each?

24 A. Well, I'll talk about the regular sick note. After you're
25 out 5 days, we require a note that you're well, and when you give

1 us that note, it's given to the dispatcher and they just send the
2 paperwork back to the manager and the, you know, the director --
3 assistance director. So, to answer your question, it's no
4 scrutinized for validity or something. He just supplied us with a
5 note from his physician that he's well enough to return to work.

6 Q. It does not go to your medical department?

7 A. I don't believe so. I could check on that, but I think it
8 just -- it's just it goes with the --

9 MR. NEWMAN: Ron Newman, TWU. The only way it will go to the
10 medical department; if they look at the note and something doesn't
11 seem legit about it, then they would question the illness and they
12 would make contact to doctor office to find out if you were really
13 ill.

14 MR. ROGERS: Yeah. I think the point

15 MR. NEWMAN: If that's --

16 MR. ROGERS: -- for your point is if I supplied you with a
17 note, you know, I've been out 7 days, got my doctor to write me a
18 note that he's well, that, you know, the cold is over, and I gave
19 you the note, that's --

20 BY DR. JENNER:

21 Q. Right.

22 A. -- that's the end of it.

23 Q. It goes on your record.

24 A. It just gets filed with the sheet that was generated by me
25 being out.

1 Q. Right.

2 A. And then the other -- yeah, the orange to the apple is that
3 if I was out those 6 days, I have 15 days from the day I turned in
4 to get an FMLA request form and have my doc send it out, then they
5 -- that goes to AmeriHealth the third-party people, and they would
6 evaluate it and send the manager at my location an approval, and
7 then those points would be taken away.

8 Q. Okay. I think that's the questions I have. We'll go around
9 a second time for follow-ups.

10 MR. DOLBIN: Rick Dolbin. No follow-up.

11 DR. JENNER: Okay.

12 Any questions --

13 MR. NEWMAN: Ron Newman. No follow-up.

14 DR. JENNER: Okay, Mike?

15 MR. HOEPF: Nothing for me.

16 DR. JENNER: Great.

17 Dave, thank you very much for --

18 MR. ROGERS: Oh, you're welcome.

19 DR. JENNER: -- for --

20 Thank you both. Is there anything you want to add that --
21 for your clarification?

22 MR. ROGERS: No. You guys were very thorough. I mean, you
23 followed your path and came up with really good meaningful
24 questions.

25 DR. JENNER: Okay. We try and once in a while we get it

1 right.

2 MR. ROGERS: Yeah, really.

3 DR. JENNER: Great. It's 11:04 and we'll conclude this
4 interview. And thank you again.

5 MR. ROGERS: You're welcome.

6 (Whereupon, the interview was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: SEPTA TROLLEY ACCIDENT
PHILADELPHIA, PENNSYLVANIA
ON JANUARY 4, 2017
Interview of Dave Rogers

ACCIDENT NUMBER: DCA17FR003

PLACE: Philadelphia, Pennsylvania

DATE: January 7, 2017

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been transcribed
to the best of my skill and ability.

Karen M. Galvez
Transcriber