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Interview Transcript – Jason Cox, National Representative, Brotherhood of Railway Carmen; David Arouca, National Legislative Director, Transportation Communications Union March 27, 2023

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of:	*	
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SAFETY MANAGEMENT AND SAFETY CULTURE AT NORFOLK SOUTHERN	*	Accident No.: DCA23FM015
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Interview of: JASON COX, National Representative
Brotherhood of Railway Carmen
and
DAVID AROUCA, National Legislative Director
Transportation Communications Union

Government Affairs Office
Transportation Communications Union
Washington, D.C.

Monday,
March 27, 2023

APPEARANCES:

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

ANNE GARCIA, Ph.D., Human Performance and System Safety Investigator
National Transportation Safety Board

MICHAEL HOEPF, Ph.D., Human Performance and System Safety Investigator
National Transportation Safety Board

ROBERT BEATON, Ph.D., Chief, System Safety Division
National Transportation Safety Board

I N D E X

I N T E R V I E W

(2:15 p.m.)

DR. JENNER: Good afternoon. Today is Monday, March 27th, 2023. The time is 2:15 p.m. My name is Stephen Jenner, and I am a human performance and system safety investigator with the National Transportation Safety Board. We are at the Transportation Communications Union, the TCU, Government Affairs Office in Washington, D.C. Today, we are meeting with TCU officials in regard to NTSB's investigation of Norfolk Southern's safety management and safety culture.

I want to make sure on the record that you're okay with us recording this interview?

MR. AROUCA: Yes.

MR. COX: Yes.

DR. JENNER: Very good. Thank you.

What I'd first like to do is go around the room and we'll introduce ourselves. And if you would, just spell your name, say your title and affiliation.

Again, my name is Stephen Jenner, human performance and system safety investigator with the NTSB. And we'll first start with the people in this room.

DR. GARCIA: Okay. Anne Garcia -- sometimes we spell our last names, too -- G-a-r-c-i-a, for the transcriptionist. And I'm also a system safety investigator for -- human performance and system safety in the Office of Rail, Pipeline, and Hazardous

Materials for the NTSB.

MR. COX: Jason Cox, C-o-x, Brotherhood of Railway Carmen, national representative.

MR. AROUCA: David Arouca, national legislative director for the Transportation Communications Union. Arouca, is A-r-o-u-c-a. And the Brotherhood of Railway Carmen are a division of TCU.

DR. JENNER: Great. And Bob?

DR. BEATON: Hi. I'm Bob Beaton. I'm the chief of the System Safety Division at NTSB. We're located in the Office of Rail, Pipeline, and Hazardous Material investigations. And our division, the System Safety Division, winds up supporting any of the accidents where human performance or group performance, team performance, is an issue in the investigation. So we appreciate the opportunity to have some time with you this afternoon and look forward to hearing what you have to tell us.

DR. GARCIA: Mike?

DR. HOEPF: And I'm Mike Hoepf. That's H-o-e-p-f. Also with the NTSB. I hold the same position as Anne and Steve.

DR. JENNER: Very good. Thank you.

INTERVIEW OF JASON COX AND DAVID AROUCA

DR. JENNER: So, in the last few months, Norfolk Southern had some train derailments on the main line as well as some other incidents that I think you're familiar with. Norfolk Southern officials have publicly stated that their goal is to have the strongest safety culture in the railroad industry. So we'd like

to explore your experiences with the work that you perform or oversee to get some insight on your perception of the current safety culture. And I know that safety culture means different things to different people, but I think maybe we can consider, you know, for our discussion how Norfolk Southern -- how safety is prioritized and how it's valued.

So we have some questions for you, but first, we'd like to get a little background about who you both are and your work experience in the industry and how you got to your current positions.

So, David, if you want to -- Jason, if you want to go first?

MR. COX: Sure. I hired in the Norfolk and Southern in 1998 as a car inspector. I worked there for about 2½ years before I was furloughed during the Conrail acquisition and I went to CSX Transportation as a car inspector there. Shortly after, I got involved in the union and had three terms as a local chairman while performing boots on the ground work as a car inspector for CSX Transportation, where eventually I was promoted to national representative for the carmen on NS, CSX, and 14 other agreements.

DR. JENNER: When did you begin being part of the union in your capacity that you just described?

MR. COX: 2002.

DR. JENNER: Okay. What have your duties been in the union, where have you worked, and what type of tasks are you charged with?

MR. COX: So in the union, like I said, about 2002, I was the local chairman, the local grievance officer who works with the men. They bring their grievances to me. And after my promotion to national rep, I oversee the final stages of arbitration on multiples of those agreements, as well as handle the safety concerns of the workers.

DR. JENNER: And if you can just tell us about how do you come to recognize safety concerns from the workers? Do you reach out to them? Do they reach out to you? Do you see things firsthand?

MR. COX: Usually they pick up the phone and they'll call me and they will express, you know, certain situations that are going on. They sometimes will write reports, which I will present to the company to handle. And other times it's handling issues that I might recognize to the individual belong in another forum such as whistleblower or OSHA forum, and I would give them direction on how to handle that.

DR. JENNER: Great. And I'm sorry, just a date for the national rep, when you became the national rep?

MR. COX: That would have been 2011.

MR. AROUCA: And you were assistant and then --

MR. COX: I was assistant then, yeah.

MR. AROUCA: Assistant national.

MR. COX: Assistant national.

MR. AROUCA: Yeah, that was when he got brought on fully with

the union.

DR. JENNER: Okay.

MR. COX: Yeah.

DR. JENNER: Very good. Appreciate the background.

David, you as well?

MR. AROUCA: I -- much less interesting than Jason. I've been at TCU in the legislative department since 2015, July 2015. Never worked on the railroad myself, but grew up in a railroad family. Both my parents were lawyers for the rail industry. Mom spent her entire career doing it. So it was kind of an easy -- easy to jump into this field. And obviously, they've been a source or a wealth of information on a lot of this stuff, especially with how the industry used to be to where it is now. That's a little bit of my background.

DR. JENNER: Okay. What keeps you busy? What are some of your main tasks?

MR. AROUCA: This stuff. You know, fighting for these guys on Capitol Hill to try and ensure that, you know, they have enough time to do their inspections, to, you know, defend their positions, their qualifications. You know, as carmen, it's not an easy role. Any of them will tell you it is a tough, tough gig. Yeah, you know, I love doing it, advocating for them, whether it's before federal agencies, on Capitol Hill itself. That's what I love doing.

DR. JENNER: Very good. Thank you.

If I can have one of you just take a moment and tell us about TCU, what is it you guys do, who do you represent?

MR. AROUCA: Sure. TCU is about 35,000 or so members active currently, probably about 30,000 dues paying, about 5,000 retirees. It's primarily a railroad union. We have several primary crafts though: clerical, intermodal, the carmen, supervisors, and a host of others, crew callers, etc. It's kind of a jack of all trades type union. But outside of that, we have some folks in the transit industry and at Disney World.

DR. JENNER: Cool.

MR. AROUCA: House Mouse.

DR. JENNER: And how long have you guys been around? TCU.

MR. AROUCA: 2015, got started.

DR. JENNER: No, I mean the union itself, how long --

MR. AROUCA: Yeah --

DR. JENNER: 2015 is when the union started?

MR. AROUCA: Oh, oh, sorry.

MR. COX: Oh, no. Oh, no.

MR. AROUCA: TCU --

DR. JENNER: Yes, TCU.

DR. GARCIA: Right.

MR. AROUCA: -- was the you guys. 1890- --

DR. JENNER: Okay. I was -- yeah.

DR. GARCIA: Yeah. We thought it was something like that.

DR. JENNER: Maybe it branched off from something and became

TCU. So you've been around forever.

MR. AROUCA: Right. No, a long time and a lot of consolidations over the years. It was the Brotherhood of Railway and Airline Clerks at some point. And, I mean, we have a lot of very historical crafts that have merged in over the years. The Brotherhood of Sleeping Car Porters is an ancestor union of ours -- Philip Randolph, a very famous union. And yeah, the ARASA folks, the supervisors, merged in I believe in the nineties. And the carmen I believe merged in, in the eighties, early eighties. Or something like that.

MR. COX: Yeah, that sounds right.

MR. AROUCA: We can give you a historical document.

DR. JENNER: No, that's -- just a flavor is fine. Thank you.

MR. AROUCA: Oh, we merged in with the machinists ourselves in -- that completed in 2012, and it's the machinist townhouse.

DR. JENNER: Got it. Thank you.

Well, back to the original purpose we're here. We're interested in the safety aspect of Norfolk Southern and we want to know if they're doing their job well or if you have some concerns. And we're going to leave it up to you to describe what you think we should know.

MR. AROUCA: Should I kick us off?

MR. COX: Sure.

MR. AROUCA: Well, we got a lot to go through.

In a nutshell, not great. It's not great really across the

industry, but Norfolk Southern, in particular, has been pretty bad for a while. It's hard to really give them all a relative grade to each other, but I'd probably say Norfolk Southern is one of the worst offenders in some respects, right?

MR. COX: That would be correct.

MR. AROUCA: Yeah. So as background on what the carmen do, this is the craft of employees that inspect, maintain, and repair railcars, both in the freight industry but also passenger as well. This is a craft that you train to become a full qualified journeyman carman. It's about 732 working days or about 3 years to become a journeyman. It is a -- definitely a specialized, you know, craft in that respect. You want guys that are trained to do this job and to do it well. They know exactly what they're looking for when they're looking at cars. A lot of the other crafts, even though they are allowed, and we'll get into that in a moment, to inform some of these inspections, they are definitely not the ones that are qualified to do it in a, what we believe is a safe manner.

So on that -- in that regards, we wanted to kind of walk through and start with what the regs state. And it's important to say -- like start there because we can then jump off on what's not happening. So I brought this little document for you guys. You guys can each have one. Jason and I will share this. It's just I literally just pulled the reg language here.

DR. JENNER: Right. So you're showing us -- the title is 49

CFR 215 --

MR. AROUCA: Yes.

DR. JENNER: -- Railroad Freight Car Safety Standards.

MR. AROUCA: Yeah. That's the part and the subpart there, 215.11. So this is the part of the code that describes essentially the mechanical standards for the freight car. It designates an inspector and it even specifies that the person who is the designated inspector, you know, should be one who can understand it for compliance with the full part of this section and make the determinations required. Make the determinations, I mean, that's very clear to me.

So why am I presenting this to you? One of the key parts in the rail industry is obviously a mechanical inspection of the train consist. You know, you can do it, you know, before -- you know, on inbounds or outbounds, but it is supposed to, and in 215.13 right here, at each location where a freight car is placed into a train, it's supposed to be inspected before the train departs. That is very obvious and clear about what this mechanical inspection is supposed to be looking for.

And to detail that, I printed off the Schedule of Civil Penalties for Part 215. So that lists every single thing that we are legally required to ensure is in working order prior to it departing, else, you know, the railroad or if it's a willful violation, the carman himself, is liable for a fine. So this is not something, you know, oh, you know, you can inspect it, you

know -- like, no, this is -- our guys can get fined, the railroad can get fined if this stuff isn't in working order.

So, but jumping back to this section -- well, I guess, before we jump, I want to stay on the schedule there. Essentially what it amounts to is about at least 90 points of inspection per side of a car. And I say at least because when you combine it with the other schedule of safety appliances, which is, you know, the handbrakes, the rails, you know, other things that the crews have to be -- that have to be in working order for the crews to be able to actually, you know, operate service -- you know, they're hanging off the side of this thing, you know, they need their handholds and all that stuff to be in working order, right? You combine all that stuff together, it's at least 90 points of inspection per side of the car.

And what used to be the standard back in the day -- well, I should say about 20 years ago there was no standard, it was -- or time constriction around these inspections. It was when you got the inspections done, they got done. Then they moved to 3 minutes, on average, per car. And that was, you know, pre-PSR era. And then PSR came along and they whacked that by two-thirds and they are now forcing our guys to do these inspections in 30 seconds a side or 1 minute a car, or less. You know, it's very frustrating.

We have a lot of documentation to --

DR. GARCIA: Just for an idea for context, what's the length

of a car?

MR. AROUCA: How long are they? It depends on --

MR. COX: About 100 feet.

MR. AROUCA: Yeah, 100 feet.

DR. GARCIA: About 100 feet. And the inspections, these 90 plus inspections per side, are the length of the car or just in one area?

MR. COX: The length of the car, 30 seconds per side. So you got a 100-foot freight car and it is sitting on a track that is on top of loose walking ballast, stone. You're supposed to be watching where you're stepping, how you're stepping, you're supposed to be safeguarding your own safety. Walking around a freight car in a minute, let alone inspecting one, you know, just think about that.

MR. AROUCA: Yeah. It's not at all really feasible. I mean, maybe if you ran you could do one in 30 seconds, but you wouldn't be able to keep that pace ever. So that's kind of one of the things that we've been trying to push back on in the industry for quite a while to no avail.

And, you know, I think there's a lot of folks at the FRA that are -- that seem to be split on this. Some of them think that this is completely ridiculous, how can we -- how can they actually be, you know, performing these inspections adequately? In fact, I talked to the previous administrator, Mr. Batory, directly about this and he even said to me, you know, I was out at a railyard

once and I sat behind this inspector and I watched, I watched -- I sat behind this carman and I watched him. He just missed defect after defect. And, yeah, I totally know what you mean. And I said, Mr. Administrator, yes, that is the problem. It would seem that you're in a position to do something about that. And he kind of gestured to, you know, his higher-ups, a/k/a, you know, the inherent policy of the Trump administration not to perform -- add any new regulations. It's two -- the two for one deal, right? So that was pretty frustrating. You know, even having a confirmation from an FRA administrator of like he saw it with his own eyes and -- you know, that's kind of what we're up against sometimes.

Yeah?

DR. GARCIA: I have a question. And I'm sorry. Normally it's just one person at a time asks questions, but I'll just ask. These cars that you're inspecting, do they belong to Norfolk Southern or is it like in East Palestine, where the cars belong to someone else?

MR. AROUCA: All of them.

MR. COX: It's a mix of everybody. You got to remember the nation's railroads are designed as an interchangeable integral system. And the health of that system is determined by its participants, which unfortunately the participants' culture entirely has degraded to a particular point because they're paying attention to OR and the stock price rather than the safety of the public, in my opinion.

DR. GARCIA: So the owners of the car might not be the railroads that you work for?

MR. COX: Correct.

DR. GARCIA: So you might have no influence or no discussions on who maintains them, the maintenance requirements?

MR. AROUCA: Right. Well, I mean, it's still -- that's why these schedules of things are detailed for any car placed into revenue service. So it's not tied to the manufacturer or the owner of the car.

DR. GARCIA: Right.

MR. AROUCA: If you're a railroad running these cars, they have to be in working order. So it is upon the railroad, who then bills back the owner of the car. You know, and before a car owner releases their car, they themselves are supposed to go through, you know, a sheet themselves and kind of inspect things and make sure that -- you know, it's like renting out a car, right? Like they're going to make note of any kind of defect or ding, etc., so they're not getting billed back for things that they didn't necessarily cause. So that's kind of how that all works.

I mean, I couldn't tell you the percentages, but I think the majority of the cars out on the network are privately owned. You know, whether it's union tank car, TTX, you know, shippers themselves. You know, a lot of them are privately owned, but it's still on the railroad to inspect and maintain these cars to the effect that they remain in working order and are in compliance

with all the regs. Hence, the job of a carman.

DR. GARCIA: Thank you.

MR. COX: Sure.

MR. AROUCA: So I guess -- this is kind of jumping into two things. I'll come back to the minutes per car. But one of the problems, since we're already here at 215.13, the pre-departure inspection. And I inserted a/k/a the mechanical inspection. The code doesn't say that, but that's what it's getting at. That's -- the whole section is.

Again, at each location where a freight car is placed in a train, the freight car shall be inspected before the train departs. It can be made before or after the car is placed into a train. That's pretty easy to understand. And the location where an inspector is designated under 215.11 -- that's the designated inspectors portion up there -- shall be -- you know, those inspections shall be made by that inspector. That's essentially saying if, you know, Jason, the carman, is on duty or is where they're at, they're supposed to be doing the inspection.

DR. GARCIA: Um-hum.

MR. AROUCA: (c), and why I have it highlighted, is the massive loophole that the railroads are abusing. At a location where a person designated under this section is not on duty for the purposes of inspecting cars, as the inspection required, shall, as a minimum, be made for those conditions set forth in Appendix D. And that's why I call it the Appendix D abbreviated

pre-departure inspection.

So this, you know, when written, this makes sense, right? So you have all these carmen in a yard where you're assembling trains. You want -- you know, you're supposed to, if a carman -- if you're in a yard, they're supposed to be doing the inspections. They are trained to look at all these things, right, catch all this stuff. And, but if you're out on the network, you're picking up freight from a customer, you know, a block of a cars here or there, that conductor is going to be needing to do his own little abbreviated pre-departure inspection, otherwise, you'll have to carry a carman around with you all over the place. I mean, that wouldn't be the worst thing for a scope of work, but, you know, obviously that's why it was written.

Unfortunately, this exception to the rule has largely become the default rule in many respects. They have ended up replacing all of our carmen with either -- whatever they deem -- utility workers, or they'll have the traincrews doing it themselves. Because why? This PSR model is built around the concept of terminal dwell, right? Get these cars in, get them out as fast as possible. They don't want anything -- you know, terminal dwell is what they live on.

So how do you reduce times? Well, one thing would be to have them only do abbreviated pre-departure inspections with the traincrews, right? So how do you get to that point? Well, you get rid of all the carmen. You got to furlough the heck out of

the craft itself, you know, shuttering yards, etc., etc. Or, if there are places where you still need to have -- repair tracks, etc., you create -- what they've been doing is creating these satellite yards. So they'll say, well, there's no carmen there, they're over at the satellite yard about 300, 400 yards away, they're not at a location per the regs. And so that gets them outside of all this.

And what is the result? There are trains going around out there throughout the network, thousands and thousands of miles, without a mechanical inspection by a qualified mechanical inspector, a/k/a carman. And that has been something we have been raising hell about for a while because it's not just, you know, an insult to the craft, it's an insult to the industry. And, you know, there's a lot of people talking about the dignity of work out there. How dignified is it if you're trained to do something -- this is what our carmen president, Don Grissom, talks about, is the only career he's aware of where they train you to do a job and then fire you for doing it. I mean, that's really -- that really is how it is.

I mean, literally right before we came down here, Jason got a call from, you know, some CSX guy saying they're telling me to rip off these bad order tags. That's a defect tag.

And what did you tell him?

MR. COX: Do your job. If you don't do your job, then something happens like East Palestine, do you really want that on

your conscience? But again, they persuade, intimidate and harass our people in ways with such -- with inspection times and quotas and everything else, to not do what we're supposed to do. Because ultimately, they're going to run you off the property, you're not going to make your mortgage, you're not going to feed your family, and that's what they do.

Can I elaborate on this a little bit?

MR. AROUCA: Absolutely.

MR. COX: So on this regulation here --

DR. JENNER: Which regulation, please?

MR. COX: 215.13.

DR. JENNER: Thank you.

MR. COX: This was written quite some time ago. And when this was in place, you had a lot more railroads, you had a lot more terminals, and you had a lot more interchange. So this part where it talks about where a car is placed in a train would happen a lot more than it does today. Under the larger railroad system, they don't have to do that. So they've recognized that the reg has become deficient under the current structure.

And like this section right here, the full 215, as a carman, if I do what I'm supposed to do and I take exception to the car, it gets pulled out of the train, it goes to the repair track, it receives the necessary repairs that it's supposed to receive on the rip track, including a single car full brake examination. That work gets done, then the car eventually goes back out into

serve. Well, by doing what they're doing here, they realized they can bypass all that and all we have to do is pick the freight up and deliver it. The health of the car fleet, thus deteriorates.

And if I were to proffer an example that would link in the most recent disaster, one thing that a car inspector does when he's doing these inspections under 215, it talks about a loose wheel bearing seal. What I would do, and I have done personally as an inspector in the field, when you see grease around those bearing seals, you'll get your gauge and you'll just give it a little pry to see if it's loose. If it is loose, that's allowing particulates into the bearing, it's allowing water into the bearing, and it's allowing the lubricants to escape. That bearing will fail, it will burn up, and you will be left with a disaster. Something that's visual criteria that a car inspector can make the difference.

MR. AROUCA: I'd like to point out that, from the FRA safety advisory that they released on wheel bearings, the particular incident in Warner Robins, Georgia, where the bearing blew up out on the line. It had clearly sprayed lubricating grease all over the car behind it, indicating that the journal bearing was defective. They got instructions, the crew got instructions to, you know, kind of limp along to the next yard for 75 miles and keep an eye on it, you know, over the next few detectors. It got to the next yard and then was not inspected by mechanical personnel or set out for repair before it was added into the next

train. It was added into a train and 15 miles down the road it caused a derailment.

I mean, this is insane. This thing blew up out on the line already. They limped along to the next yard and somehow, because of the scheme they had put together on the rails, it goes right out there and causes a derailment. I mean, that's what we're talking about here.

DR. GARCIA: And what is that document again?

MR. AROUCA: This is the FRA safety advisory that they issued shortly after -- what is this date here? Why don't they put a date on it? That's weird.

DR. JENNER: After Palestine, is that --

MR. AROUCA: Yes.

DR. JENNER: Okay. That's fine.

MR. AROUCA: If you look it up, it's the most recent one.

So evidence of a lot of this. But here's -- there's two -- I want to really kind of hit home on the fact that this pre-departure abbreviated Appendix D, as I kind of put down there -- again, I just kind of copied and pasted a whole bunch of stuff -- it is not -- this is all it's looking for in Appendix D, versus that.

DR. JENNER: That is the Part 215?

MR. AROUCA: Yes.

DR. GARCIA: Right. So it's this list of --

MR. AROUCA: Yes. That's the abbreviated.

DR. GARCIA: Roughly a dozen items compared to 90 -- did you say 90 plus?

MR. AROUCA: Um-hum.

MR. COX: Yeah, basically, in the abbreviated --

DR. BEATON: Steve, can I ask a question?

DR. JENNER: Sure, Bob. This is Bob Beaton.

DR. BEATON: David, thank you for these comments and insights as well. I just wanted to follow up on -- I mean, I appreciate you limiting the scope of our discussion to wheel bearings because it's most relevant to --

MR. AROUCA: Oh, we're not limiting.

DR. BEATON: -- your carman and --

MR. AROUCA: We just haven't gotten to the rest of this.

DR. BEATON: -- East Palestine. But I was hoping that maybe throughout the course of what you plan to talk about, you could touch on some of the other issues that carmen might catch when they have time and opportunity to inspect a car, such as in -- you know, we've got five or six accidents that have been identified by NTSB as sort of substantiation for why NTSB's looking at NS's safety culture -- Springfield, Ohio, Cleveland, Ohio, a few other ones. And some of these don't involve -- well, most of them don't involve wheel bearings, but, you know, things like freight -- materials coming loose on freight cars and impaling another train. I would assume that's something a carman would include in their inspection. So any comments along those lines.

And David, I know I interrupted you. You started to say what's the evidence for all of this. That was going to be my second request, which is, you know, any data you have on the number of poor inspections or the number of improperly inspected cars, the number of improperly inspected, whether it's bearings or freight loads or what have you, that would be very helpful to us.

MR. AROUCA: Well, I'll start off by kicking it over to Jason really quick to kind of talk about some of the other things, you know, that the carmen would flag, even related to other recent derailments. But go ahead.

MR. COX: So -- and I appreciate that question and I'll highlight some of the things. You brought up Springfield. I actually participated in part of the investigation. I was there and I witnessed the aftermath of the derailment myself. And pertinent criteria to what you're talking about, a loose wheel on the axle would be something that a car inspector would be looking for. He would be looking for signs of that. That is part of a visual criteria.

Other visual criteria that could -- that a car inspector would look at would be the health of the train line trolley assemblies where the hoses are connected. Because if those bind, you have a -- you can have a hose separation and an unintended emergency application of the brakes, which also has been in recent news, that if the makeup of that train is unbalanced and you have an emergency brake application, you can take cars off the rail.

You know, due to the fact you got 18 loads on the rear or 6 empties in the middle, and these trains are 200 cars plus now, getting there. We're seeing forces applied on trains that we've never seen historically.

Another thing you would look at on these freight cars would be the draft system and the couplers themselves. If the draft system is broken or inoperative, you end up with buffering forces and slamming between two sections of railcars that you would not normally see. If you end up with a separation of that train due to those conditions -- again, historical examples can be cited. The train separates, the emergency brake application applies, the rear end does not -- or the front end does not slow as quickly as the rear end is trying to, and they separate and they pull apart, and then the rear end catches up and the train basically runs into itself and causes catastrophe.

Other things car inspectors are looking at, binding and fouling brakes. When you have binding brakes, they heat the wheels. Heated wheels pick up particulates from the rail, they also pick up particulates off of the brake shoes and cause a condition called built-up tread. As this tread builds up on the surface of the wheel, the wheel actually gets bigger, to the point that the flange that keeps the train car on the track will rise above the surface of the rail and the car rides off.

Or just not enough braking force in particular. I mean, if a car's health is properly gauged and properly maintained, if that

car -- if that train could have stopped 30 feet earlier, why would you not want it to stop 30 feet earlier?

So those are some examples I can outline for you there. Does that answer your question?

DR. BEATON: Yes, it does. Thanks very much, Jason. I appreciate that.

MR. COX: Okay.

MR. AROUCA: What was I going to go into next? Oh, evidence of a lot of this stuff. So -- so I'm going to hand you guys a couple of documents from Norfolk Southern. Now it is important -- well, first I'll tell them what it is. This is a consist list. So this is basically a train in order as it's put together by the railroad. And then right after that, following it, is an internal inspection report, and all the numbers, the hand written numbers along the side correlate to the car's position in the train. So it's not -- and you'll be able to see 147006 in that train is car 70. So 70, 147006. Got it?

As you can see, if you page through this document, there are cars sitting here right in the first one, 46,000 miles since last mechanical inspection; 44,000 miles; 19,000 miles, 30- -- this was the line of questioning in the hearing that Senator Peters was asking about, because this particular train travels from Portsmouth, Ohio up to Detroit -- actually Dearborn, I believe.

MR. COX: Dearborn.

MR. AROUCA: Yeah.

DR. GARCIA: So which train was this?

MR. AROUCA: Train 422. And you guys can take this document.

But even outside of that, and I'll -- well, I'll just kind of run through some of the -- you know, all of these blown mechanical inspections. And this is a mileage term here. You're looking at -- I mean, there was one 72.000 miles. I think there's 90,000 mile in here somewhere. I mean, pretty absurd figures. And when I showed these to the operating crews, their minds -- their heads exploded. They were like, is this actually possible?

So why did we do this or how did we come across this? Well, a couple of weeks ago when Jason and I were talking, you know, we mentioned that -- you know, we had been talking about this particular issue, this 215 Appendix D issue, right?

And you had had a conversation, I believe, with an FRA inspector at the site of the Springfield derailment.

MR. COX: Yeah, the Springfield derailment.

MR. AROUCA: And you asked him, you know, if they're not being inspected the way the railroad's being operated today, if it's only getting an Appendix D at origination and it's running right on the main line the entire time from origination to end user, when is it ever getting a mechanical inspection, a full mechanical inspection? Because a lot of these trains that go -- they just ping-pong between, you know, shipper and end user. And you asked that of an FRA inspector and he said, I have no idea, that's a very good point.

MR. COX: To quote him, "That's a good question."

MR. AROUCA: And so that's why we started looking for, you know, one train in particular that could be particularly egregious, and that's what this one is. It's a coke train out of Haverhill Coke Company. It travels up to -- travels from Cleveland Cliffs up in Dearborn to Haverhill Coke Company. This one's 105-car train. And as far as we're aware -- well, we are -- I'll get to that in a moment. But the mileages here are just absurd. You would never -- I mean, you read the regs yourself. They're supposed to be getting a mechanical inspection every time a car is placed into a train. How is this -- in that sense, how is this appropriate at all? That doesn't make any sense.

And to Jason's point, when these regs were written -- and, sure, maybe they need updating with the current business model. When these regs were written, you were running into a rail yard every 100 miles or so, things getting interchanged, inspected, carmen all over the place with eyes on train cars. So there were, you know, these redundancies to create that level of safety. Now there isn't. So we provided that to the committee. We also provided it to a couple journalists who are running it down as well as the FRA.

Norfolk Southern came back to one particular publication and has pushed back and said this is an outdated system, an older system, it's only used at a few terminals and doesn't represent some of the inspections that it receives elsewhere in the system.

Our guys really challenged that concept. You know, our union knows exactly where our carmen are. And basically we have never heard of this train ever getting any inspections. You know, we had a -- you know, once we heard that back from NS's pushback, we went back and said, hey, really make sure nobody's inspected this train. And sure enough, there's like one guy, one carman somewhere along the line who has been inspecting this train but only since East Palestine. Before that, there were no inspections of this train, 422 -- or 423, I think, which is the empty train.

MR. COX: 422 is the loaded train; 423 is the empty train.

MR. AROUCA: Um-hum. So that's one thing. I mean, it's clear or it's -- you have to remember that there are no mileage requirements for inspections, for mechanical inspections because they never really conceived that it wouldn't get a mechanical inspection, you know, the way the network was built before.

Now, you know, with this train in particular, they even have an internal policy regarding it that says that all these train -- all these cars should get a mechanical inspection every 3500 miles. They're wildly blowing that in itself. Not to mention the actual FRA regulation, that they can get fined out the wazoo for, mileage since last brake inspection. That's supposed to be every 1,000 miles or every 1500 if it's deemed an extended haul train. And they're blowing lots of those, too.

So, you know, this is kind of -- a bit of a smoking gun.

DR. GARCIA: You said that the brake inspection is supposed

to be every how many miles?

MR. AROUCA: 1,000 or 1500 if it's deemed an -- designated an extended haul. But that's something they have to do with the FRA and, as you were telling me, they don't really do that anyway.

MR. COX: And it's interesting to note, and I hope we're not overloading you guys with data here, but --

DR. JENNER: That's all right.

MR. COX: -- it's interesting to note that just because you perform a brake test on the train, that that does not require the 215 mechanical inspection. So, again, circling back to like I was expressing at the Springfield derailment, if your train is picked up and put together out on the line as you're picking up freight and the crew does the brake inspection and the Appendix D, when is it still ever required to get the 215 based on that business model? Again, good question.

MR. AROUCA: This is a similar document. That is where they took an actual just train consist list and literally highlighted all of them that are in the inspection report after the fact. This is a broader inspection report that has cars from three trains all pulled out of a similar location.

DR. JENNER: Right. Just to identify it, you have handwritten Trains 422/423/ -- J02?

MR. AROUCA: Yeah, I believe it was J02.

DR. JENNER: Okay. Thank you.

DR. GARCIA: And this is Document 6? Okay. So what is this

again?

MR. AROUCA: Sorry. Same internal Norfolk Southern from the CTMS system. It's a inspection tracking internal report system. As you can see, we pulled -- it was pulled very recently. It was pulled the day before the hearing, actually.

DR. BEATON: Do those reports exist in any place outside of the NS internal software system? I mean, are they provided to the regulator or --

MR. AROUCA: I believe they have to furnish them upon request. But they don't really -- I mean, I was talking to Jason about this earlier, that the traincrews will just kind of write these slips up and -- paper and just kind of chuck them later oftentimes. They do have an alternate, like a different system for their broader network, I believe, called Fiori or Fiorae or --

MR. COX: That's primarily mechanical driven though, nothing that the traincrews use.

MR. AROUCA: Right. Sorry. But I'm talking about for inspections.

MR. COX: Oh, yes.

MR. AROUCA: Yeah. So it is possible that, you know, we're -- they're right and all those cars are getting inspected by some magical carmen that don't exist on some other, you know, alternate system. But at this point, especially since this has now been pointed out to them, I'm sure they're -- well, I wouldn't put it past them to be doing some backend editing.

So that is one particular issue. And the other --

DR. JENNER: Okay. Can I just --

MR. AROUCA: Absolutely.

DR. JENNER: This is Steve Jenner. I just have a few questions for clarification or just to elaborate. You had mentioned, I think your words were -- when you were describing the reduction of time to inspect cars from 3 minutes pre-PSR down to 1 minute to per car, you mentioned trying to push back in the industry to no avail. Can you walk me through how you were trying to --

MR. AROUCA: That's where I'm going to.

DR. JENNER: Okay. Well, then let's hold off on that answer for a second. Pre-PSR, what was the time you had to inspect cars?

MR. COX: You were looking anywhere from 3 minutes to 3.7 minutes. Now, mind you, that's based on a average. Because in real life as an inspector, if you approach a gondola that has bowed sides and was built in 1975, you're going to spend a lot more time than 3 minutes looking at that car than the one that was built and put into service last month and you can still smell the paint curing. So --

DR. JENNER: Right.

MR. COX: But, yeah, on average, 3, 3.7.

DR. JENNER: All right. That timeframe, was that adequate?

MR. COX: I believe it was, having done the job myself under those standards.

DR. JENNER: Okay. Could your people inspect cars adequately in less time than 3 minutes? What is -- let me ask it again. What is the minimum time that you feel is necessary for an adequate inspection?

MR. COX: If you were really moving, I mean, really getting it, you're probably looking at 2.5, 2.8 minutes per car without missing something. I mean, because at the end of the day, as you shorten those times and you expect faster and faster car inspections, you are adding the probability that you're going to look over something.

DR. JENNER: Okay. Thank you.

DR. GARCIA: What's the -- just to jump in. What's the average number of cars that an inspector would inspect per day or per hour? Is this a continuous loop? Is that all that's done or is it just when a train comes in or goes out?

MR. COX: Well, you would have trains coming in and you would also have trains going out. You would have inbound operations and outbound operations. So when you're inspecting freight cars, a car inspector would be looking at about 150 to 200 cars. That would be one inspector.

DR. GARCIA: For one train?

MR. COX: For possible multiple trains. If it was on the inbound, you got to remember how trains -- well, you got to have a -- I'm sorry. You have to have an understanding of how trains are built. So have you ever seen like videos of the post office

where they take the letters and they go down the different chutes and --

DR. GARCIA: Right.

MR. COX: -- go to the different destinations? Freight cars are the exact similar way. The inbound train comes in. It might have cars in it for several destinations. You switch them out, you mix them up, they go off into their individual trains. And then the outbound operation, the carmen, they lace the air hoses, they do the air brake inspections, and the drafting/coupling inspections, and then that train is departed. Does that answer your question?

DR. GARCIA: Well, I'm trying to get a feel, you know, for workload. So you talked about, you know, doing one car in this amount of time. But is that just one item that he does and then he goes and does paperwork for the next 3 hours, then he has to get out and hustle to do another car? That's --

MR. COX: Oh, when I'm talking about --

DR. GARCIA: -- an exaggerated example, but --

MR. COX: Okay. I think I understand what your question is then. When I talk about the 3 minutes per car, that is just for inspection. That's not you take 2½ minutes to do your car and like 30 seconds is spent doing the paperwork for it or something like that. I'm talking about strictly inspection.

MR. AROUCA: I mean, her -- she's probably also, correct me if I'm wrong, but asking about like what does the rest of the day

look like for a carman? You know, he's not -- is he just sitting there inspecting cars nonstop or does he do that and he goes and chills and does paperwork for an hour so he's off his feet? Like that's, I think --

DR. GARCIA: Right.

MR. AROUCA: -- what she's trying to figure out, how tired, how exhausting is this job.

MR. COX: Oh, the current yard operations, even the yard operations before, you would just inspect your cars. The paperwork side of it would usually be a specialized bid job. Like, for instance, when I was in the craft, one of the specialized jobs that I had was the form billing to car owners. When we would repair cars, you would get in the computer, you would enter in the appropriate codes and you would bill that, and that would be what you did all day long as your other 8 to 12 counterparts were out there inspecting and repairing the cars.

DR. GARCIA: Okay. So basically you're on your feet out there in the yard inspecting cars from the moment you come in to the moment you depart?

MR. COX: In the rain, in the snow, just like the mailman. You know, you're out there in the elements, you're doing your job.

DR. GARCIA: Thank you.

DR. BEATON: So, Jason, let me follow up with a question that Steve and Anne were beginning to ask you there. This 3 minutes, give or take, per car, this inspection would typically take place

in a yard as opposed to out on the road? Excuse me.

MR. COX: Correct.

DR. BEATON: I'm down in southwest Virginia where things are beginning to bloom and my allergies are kicking up.

So that 3 minutes, when you said earlier 90 points of inspection per side per car, that suggests to me that a carman inspecting a car in the yard is probably at a fast walking pace looking for open and obvious failures on -- mechanical failures, or as you called them, visual signs, I think earlier, of a failure. So if the failure was for whatever reason not apparent, maybe because it's dark or not in a well-illuminated section of the yard or it's raining or wind is blowing, there's a -- I would assume more time would be required to do an adequate inspection to stop, look, carefully examine, maybe double check yourself, is that really grease or is that dirt on the bearing or grime on a wheel. So it seems to me that to do an adequate inspection, that 3 minutes grossly underestimates the total amount of time that's really required per car. And that doesn't include necessary activities like walking to the car or climbing over the trash that's on the wayside or what have you. It --

MR. COX: Or walking the distance of the car to get to other end.

DR. BEATON: Yeah, yeah. And, you know, and then I assume that they're walking one side, they go to the end and cross over, and then they do the same thing coming back, as opposed to going

in between the cars and inspecting both sides and then moving to the next car.

MR. COX: Or sometimes you work in teams. You have a car inspector on each side.

DR. BEATON: Okay. All right. Good. I'm just wondering, you know, how realistic is this 3 minutes? I mean, where does that number come from? Did somebody get out there and just do a stopwatch study on a skilled inspector working --

MR. COX: We're getting to that.

MR. AROUCA: We're getting there. We were just about to get into the inspections part.

DR. JENNER: Right. Before we interrupted you.

DR. BEATON: That's a subtle way of telling me to --

MR. COX: No, it's good. It shows critical thinking, that you're following what we're saying.

MR. AROUCA: Yes. So --

DR. JENNER: But I do have a couple more questions.

MR. AROUCA: Okay.

DR. JENNER: Because you raised interesting issues.

MR. AROUCA: Um-hum.

DR. JENNER: You said something along the lines of the way to reduce to time is through abbreviated car inspections.

MR. AROUCA: Yes.

DR. JENNER: But the solution was getting rid of carmen.

MR. AROUCA: It's both.

DR. JENNER: How does getting rid of carmen reduce the time? What's the correlation? What's the connection?

MR. AROUCA: Because the regulation states that at a location where a designated inspector, a/k/a a carmen, is present, they should be the one performing the inspection, and then they do a full mechanical inspection.

DR. JENNER: All right.

MR. AROUCA: Versus if they're not, then the traincrew can do their abbreviated.

MR. COX: The Appendix D.

DR. JENNER: I see.

DR. GARCIA: So that's the -- the conductor, for example, would get out and do the 12-item list instead of the 90-item list that the qualified inspector would do?

MR. AROUCA: Correct.

MR. COX: Correct. Your conductor, he's basically -- to simplify it: Are the wheels on the track? Yes, they are. Is the car not leaning? No, it is not. Is it coupled adequately? Yes, it is. Okay, I can take this car and go. Whereas, a car inspector, he's going to be looking at the freight car and, based on his knowledge and years of experience, he is going to be assessing the overall health and performance of that freight car.

For instance, one sign -- as a car inspector, when you look at the trucks where the wheels are on these cars, if I were to see, let's say, a shining effect, where it looks like the springs

are vibrating or rotating in their assemblies, that tells me that the trucks are doing a condition which is called hunting. And basically, the side frames look like this as they're going down the rail at 70 mile an hour trying to meet each and the car's literally trying to vibrate itself apart. That's something a car inspector would know that a trainman would not.

DR. JENNER: Got it. Thank you.

Two more. Do you, TCU, do they have a suggestion about how many miles -- if there were a standard or a regulation, how many miles can a car travel before it should go to a higher level of inspection? I mean, right now there is no mileage criteria.

MR. AROUCA: Mechanical, yeah.

DR. JENNER: Right.

DR. GARCIA: Brake it's a 1,000 or 1500.

DR. JENNER: Right. Do you have suggestions -- not you personally, but, you know, the industry?

MR. AROUCA: We -- I don't know personally, and I don't know if you guys do, but --

MR. COX: I might have a suggestion.

MR. AROUCA: Yeah, go ahead.

MR. COX: So, you know, there's criteria set on the mileage that is required in order to perform a brake test, like David said earlier, 1,000, 1500. I don't think it's unreasonable that the mechanical inspections should somehow also be linked with the brake test. You're looking at the cars anyway, so why wouldn't

you do the full mechanical inspection? That seems perfectly a reasonable compromise. Or if they're doing the Appendix D because the car is coming from a shipper, then at some point, maybe at the next terminal along the way, do it there. Of course, you would have to be careful how they do that, because knowing the railroads' mind-set, their solution to the problem would be sell all the terminals. So, I mean, but --

MR. AROUCA: Yeah. I think Don had an idea, whenever there's a crew change after picking up a shipment, is usually -- where there are crew changes it's at a place where there tend to be carmen. You know, that might be a good placement for how to actually tackle this in the PSR era. You know, I -- somebody's got to figure it out, and it makes -- all we know is what's going on right now is not adequate by any means.

DR. JENNER: Fair enough.

MR. AROUCA: Yeah.

DR. JENNER: And what --

DR. GARCIA: We have about half an hour left.

MR. AROUCA: Sure.

DR. JENNER: I can go further beyond that. So at some point if you would comment on the FRA safety advisory, what your thought is about that? So you can do that now or you can do that some other point.

MR. AROUCA: The one talking about the bearings?

DR. JENNER: That came out after Palestine, yeah.

MR. AROUCA: I'll talk about that later.

DR. JENNER: Okay.

MR. AROUCA: I feel like --

DR. JENNER: All right. I'm done interrupting you.

MR. AROUCA: -- we really want to get into --

DR. JENNER: Yeah.

MR. AROUCA: Yeah. No worries. So here is a few time studies beginning in 2014, so pre-PSR Norfolk Southern, showing -- and this is from Engage. They're an outside third-party group that was contracted by Norfolk Southern to do these periodic time studies. And by the way, it's very hard for us to like get documents out of the railroad.

DR. GARCIA: Right.

MR. AROUCA: It is like, you know, smuggling out of the CIA sometimes. It's very difficult.

MR. COX: People are literally putting their careers on the line to do it.

MR. AROUCA: That's -- correct -- 3, 3½ minutes in the outbound/inbound inspections. You might have a longer one on one versus the other depending on where they decide to do the mechanical inspection, either on the inbound or the outbound.

Am I right in saying that?

MR. COX: Yes.

MR. AROUCA: Yeah. So, as you can see, 2014; 2017, 3, 3.6; 2018, 3, 3.6 again. That's just a continuation of the other one.

And 2019, just 3 months after they announce their implementation of PSR, we're already down to 2.5 and half a minute. And that continues into 2020, until we reach 2022.

This is Norfolk Southern's -- I know it's tiny and I really apologize -- this is their own internal score card. This is a great document, by the way, because it shows, and I highlighted here, inbound man minutes per car, outbound man minutes per car. They're down to 1.1 and 1.7. So this -- it's important to say, look, this is -- I believe this was one -- is this one yard? The Engage?

MR. COX: Yeah, that's -- yeah.

MR. AROUCA: But representative of like where they were at the time as a company. And you can see all of these different yards along here where their different times are. And it doesn't mean like that's their policy necessarily. This is the actual results. This is like their report card, right?

This is their policy that was shown at the hearing, blown up by Senator Cantwell.

MR. COX: This should open your eyes.

DR. JENNER: This is the Train Inspection Class Brake Test Yard Air for Locomotive.

DR. GARCIA: Document 9.

MR. AROUCA: As you can see down here highlighted in blue, it clearly states -- and this is what's called a standard work document in Norfolk Southern. Any employee wondering how to do

certain tasks, they can pull these up in their internal system, print them off or look at them or whatever. Obviously this is kind of a snapped photo. Everything here is just like, you know, leaked snapped photos.

DR. JENNER: Right. So we'll be sensitive to all these.

MR. AROUCA: Yeah. And furthermore, this is an email from senior general foreman of the Dearborn Division for Norfolk Southern from --

MR. COX: Destination where that train goes.

MR. AROUCA: Yes. Actually, yeah, the destination.

MR. COX: I just noticed that.

MR. AROUCA: And "These numbers show we are slacking off in the train yard. Have no need for more help though we are struggling to keep up. Not good at all. The latest plan calls for 90 seconds on both the inbound and outbound. No, we can do better than that. Let's make this happen." This is August 2020. Again, showing further pressure to inspect cars in less and less time.

And final thing that I would want to show you guys is a video that one of our guys took showing a local manager threatening discipline if they don't get their inspection times down.

(Video played)

(Conversation while video is playing)

DR. GARCIA: Can you see that?

DR. BEATON: I can (indiscernible). Yes, I can see it.

MR. AROUCA: We redacted the rest of the audio and just kind of subtitled it to protect the guy's identity -- could probably read the subtitles.

(Video ended)

DR. JENNER: Okay.

DR. GARCIA: What level manager is that?

MR. COX: Senior general foreman, the highest on-property manager you can get for mechanical operations. And he's referring to, in his statement, his bosses are telling him to do this. So right there is an immediate link to railroad-wide policy, not just some rogue single manager.

MR. AROUCA: Right. And --

DR. GARCIA: Can we get a copy of the video?

MR. AROUCA: Yes. Can it not be shared? Can it be -- can it remain private to the NTSB?

DR. JENNER: We're going to have to verify that with our people. I'm unclear of that.

MR. AROUCA: A little background on this. We put it out there on Twitter initially and, you know, the guy knew what we were doing with the video, we intended to show it Senate Commerce, we got it kind of late. And then I think he had some buyer's remorse. Somebody on the property asked him a question about it and he felt scared, and so he asked us to take it down. So we have taken it down, but my bosses told me I could, you know, show it to you guys as part of this meeting.

DR. GARCIA: Thank you.

MR. AROUCA: Yeah. I'll -- yeah, if you can figure out whether or not this can remain private, I think that'd be great.

MR. COX: The retaliatory nature of this industry cannot be underexaggerated. And I hope you can understand that.

DR. JENNER: I do.

DR. BEATON: Yeah, I just want to be clear, David and Jason, I mean, all NTSB investigations are done with a party system. So we would not be able to guarantee that parties to the East Palestine investigation would not have access to this. We do have a mechanism for official use only, and Steve and Anne can talk to our general counsel about what can we offer for restricted access. But, in general, parties have access to any information that we gather throughout the course of the investigation.

MR. AROUCA: So Norfolk Southern, their counsel would be able to see this?

DR. GARCIA: No, not if we get permission from our general counsel to make it restricted access for official use only.

MR. AROUCA: Gotcha.

DR. GARCIA: And we don't want to accept it until we have that from them.

MR. AROUCA: Noted. Okay.

So a couple -- this is now, I think, pretty -- this is about a mountain of evidence as it comes to, you know, forcing of these inspection times to get down and down and down and down. And this

was not commonplace before PSR kind of invaded the industry. It was not commonplace in Norfolk Southern, obviously, as you can see.

MR. COX: Can I expand on something real quick?

MR. AROUCA: Absolutely.

MR. COX: To -- it just dawned on me in realization of a question you asked earlier about the fatigue of the carmen workers?

DR. GARCIA: Right.

MR. COX: When they engaged in this practice and this policy and they were getting rid of the carmen, the carmen that were left -- and I didn't have access to documents on CSX, but like -- or from NS, but from CSX I showed that this business model runs on like a 30 percent overtime. Because if I can lay off a third employee and get the other two employees to pick up overtime to cover him, I don't have to pay his retirement or pay his other benefits and I can work the dog out of these two --

DR. GARCIA: Right.

MR. COX: -- to make up that difference. And I have numerous, numerous, numerous complaints about forced overtime, 16 hours a day, 5 days a week, put to paper where our guys are saying, I'm so freaking tired I can't see straight, let alone look at a car.

DR. GARCIA: Do you know if this is specific to a yard, specific locations, or is it throughout Norfolk Southern or

throughout the industry? What's your thought?

MR. COX: Throughout the industry. But, yes, Norfolk and Southern engaged in it just like anyone else.

DR. GARCIA: So, again, if you have -- do you have access to time cards or the hours worked?

MR. COX: If those individuals will supply them to me, I would be more than happy to try to get them for you.

DR. GARCIA: Okay. But that's the type of evidence that would be useful. And what is the --

MR. COX: Would it work if it had a name redaction?

DR. GARCIA: I would think so. Employee 1, Employee 2.

MR. COX: Okay. I'll have to see what I can do about that.

MR. AROUCA: The -- yeah, he's spot on. We did a -- in 2019, we began doing this. We put out a survey of our own, a PSR safety survey, and started collecting a lot of responses. We didn't leave it out there for too, too long. Our goal was to try to submit it as part of testimony for a state of the railroad workforce hearing in, I believe, of June of 2019. And we did, we submitted it there, and there were a lot of these submissions, a lot of these comments about, you know, just being worked to full exhaustion. And I've heard that from Jason, I've heard it from our other reps on the other properties, that --

DR. GARCIA: Was there a report from that survey?

MR. AROUCA: Yeah. You know, as much as I could.

DR. GARCIA: Yeah. Could we have that?

MR. AROUCA: Yeah. I'm going to -- I'll note to send you that.

MR. COX: And to link this into the business practices and the safety culture, in general, there are multiple statements out there where the carmen would report -- and I don't know if they submitted it in that survey or not, but they would report, well, they're telling us they won't work us all the extra overtime if we just stop loading the repair track with bad order cars. In other words, you know, play ball with us and we'll play ball with you.

MR. AROUCA: Right, stop finding defects. That's kind of messed up.

The last thing I do want to note, especially because it's pertaining -- and you can speak to this better than I can -- across the industry, pre-PSR, there were these labor-management safety committees. It was a great forum for employees to be able to voice their issues, whether it's, you know, yard specific or industry specific, and I think each of the railroads had different versions of them. But one by one, as PSR invaded the industry, they all got wiped out. That's another thing that is so unbelievably stupid in my mind, why you would get rid of these things.

We have heard since, through the grapevine, that, you know, one of the reasons why they didn't want to do them anymore is because they felt it opened them up to further liability in FELA claims if a safety issue was brought to their attention and they

didn't do anything with it. I think I mentioned that on the phone the other day. It still, you know, boggles the mind. But this is, again, not just NS, but every railroad has done away with them. And I -- it's so very frustrating.

Do you want to talk about how NS's safety committee was in particular?

MR. COX: Yeah.

DR. GARCIA: Now this is at what level union and NS management? At what level?

MR. COX: Local.

DR. GARCIA: It's all local? Okay.

MR. COX: All local, at all their locations as a matter of their policy. So what would -- under pre-PSR what would happen is you would have a safety committee man from, say, the car shop and local motor shop and the yard operation and the track repair operation and the signal operation, and they would all gather on a specific date in a conference room or something or the trainmaster's office and they would all talk about outstanding issues in the yard: Hey, we have a huge drainage hole that has formed between track such-and-such, you know, what can be done to get that repaired, what we can do to limit access, you know. And these were part of the culture for a very long time.

When precision scheduled railroading came down, that was looked upon as a waste of resources and expenditure that was not required. There were no more safety committees. There were no

more safety meetings. And these issues were not discussed in general because no repairs were being done unless it was immediately necessary, you know. Nothing was fixed unless it actually got to the point that it broke.

DR. GARCIA: Now it was about a year plus ago when Norfolk Southern implemented their risk reduction program that the FRA required to be implemented, and it mentioned safety committees in there that the unions participate in.

MR. COX: Those went away.

DR. GARCIA: Those went away?

MR. COX: Those went away. Those safety committees --

MR. AROUCA: Those safety committees. The ones from the risk reduction program, we were talking about this earlier, it hasn't been an engagement operation. It has been a "this is what we're doing."

MR. COX: So they would have -- and I participated myself in these. They would have a online conference meeting and you'd log onto the meeting and it wasn't a what should we do to implement this; it was this is what we're going to do.

MR. AROUCA: I was actually on one of those and I was like, is that it?

MR. COX: Right. Right.

MR. AROUCA: It was like -- it was a joke.

MR. COX: And there was pushback from the organizations about it and things that were brought to light. And basically the

answer was, well, we've already submitted our structure for approval, we told you what we are going to do and this is how we're going to do it.

MR. AROUCA: Yeah. It was box checking 101. They have no actual --

MR. COX: That's a good way of putting it.

MR. AROUCA: No holistic look at these things. And that's why, you know, the elimination of these safety committees is just so utterly insane to me. I mean, this is -- you're dealing with unstoppable/immovable forces here in a very dangerous environment (indiscernible) rail industry.

DR. GARCIA: Right.

MR. AROUCA: And why would you not want to have just a bare minimum, a periodic check-in with your local workforce at a shop, a yard, what have you, to say, what's on your mind, guys, safety-wise? Anything we can do to improve? But the culture of the rail industry in the PSR era is not anywhere close to that. You know, it's just very crack the whip.

MR. COX: And I know this isn't on NS, but I'll share for context. In Chattanooga, Tennessee on the CSX line, there were positions at one end of the yard where they -- where people were stationed, that they would no longer station them after they cut the workforce back and everything else. And everybody was telling management that, hey, that's a vital position, they're looking out for train movements and everything else, without that guy there

someone could get killed. A carman who was finishing his track and dropped his lockout/tagout, which was what we call blue signal in the industry, was crossing the main connecting ladder of track to get to his work vehicle and he was ran over by a non-manned remote control locomotive in the exact scenario that they were told. He went under the plate of the locomotive.

DR. GARCIA: What was the location?

MR. COX: Chattanooga, Tennessee.

DR. JENNER: About what year was that?

MR. COX: I want to say 2019.

DR. JENNER: We may have done that.

DR. GARCIA: I think so. Chattanooga.

DR. JENNER: Do you recall if NTSB was investigating that incident?

MR. COX: Since it involved a fatality, I would assume.

DR. JENNER: Probably. Yeah, I recognize Chattanooga, so -- yeah, we'll look into that, too. Thank you.

MR. COX: Um-hum. I mean, they're -- the ultimate investigation, for transparency, led to other contributing factors, but the main thing was, is without that person there watching that remote control locomotive, like they were told.

DR. JENNER: Right.

MR. COX: Regardless of any other outside factors that was involved with that individual, that individual could have been saved.

DR. JENNER: Something just I'm curious about. You just said ultimate investigation. What is the ultimate investigation?

MR. COX: When it was all said and done, I believe -- the individual, I believe, had intoxicants.

DR. JENNER: Okay. Let --

MR. COX: Oh, I'm sorry, the person who got killed.

DR. JENNER: Right.

MR. COX: But to my point, what I'm saying is, had that position been there --

DR. JENNER: Oh, no, I --

MR. COX: -- watching the remote control locomotive like had been done, a life could have been saved.

DR. JENNER: Right. No, that point's not lost on me. I was just --

MR. COX: Okay.

DR. JENNER: Right. I was just -- if you could talk about when there is an incident, about the quality of the investigation that goes on? Are they -- when their investigation is going on post-incident, are they looking to blame an individual? Are they looking to improve the overall system safety?

MR. COX: Well, that's --

DR. JENNER: If you could talk about that and if it's changed through the years? So I'll let you speak on that.

MR. COX: No, it has not changed through the years. As a matter of fact, in the scenario that I just talked to you, I

believe it was proven or outlined in that investigation that supervision gained access to the individual's lockers and automobile and everything else prior to the NST [sic] -- to you guys getting there, which from my understanding is a big you don't do that.

MR. AROUCA: Oh, I remember that. Yeah.

DR. JENNER: But not speaking specifically on that, but are you part of investigations? Are you ever part of someone gets injured and there -- is there investigation?

MR. COX: There's -- so particularly on the Norfolk and Southern line, if you experience an injury and it is reported, there will be a discipline hearing on you 100 percent of the time.

DR. GARCIA: If you report injury --

MR. COX: A discipline hearing, yes.

DR. GARCIA: -- there will be a disciplinary hearing?

MR. COX: There will be a disciplinary hearing. I've never known any railroad is as flagrant about that than the Norfolk and Southern is. And it's a blame, it's a finger-pointing mission, I guess would be the way -- best way I could describe it.

MR. AROUCA: What's the funny thing you said about that? What is the joke you guys have about that, about getting injured?

MR. COX: Not that I recall.

MR. AROUCA: I'll remember it later.

MR. COX: I remember when they made safety fourth.

MR. AROUCA: That's true.

DR. JENNER: Are there occasions where there are positive changes following an incident that you can cite?

MR. COX: Not that I'm aware of. I mean, my experience with it, it's all a finger-pointing expedition. It's the employee's fault. He's the reason, hey, this is -- it definitely wasn't the railroad's problem.

DR. GARCIA: What about when an unsafe condition is seen or believed might be occurring? Employees report that? There's a process to do that?

MR. COX: There's a process to do that, but there is very little engagement right now because of the retaliatory culture that I've alluded to previously.

DR. GARCIA: So is there an anonymous system? I know that Norfolk Southern and Class I's just signed up for the NASA one, the CS --

MR. AROUCA: C3RS.

MR. COX: So if there's an anonymous system to coming to light, that would be a nice improvement. But there's been a lot of reluctance to participate in that because if you throw your name out there, you are the thorn in the side, you are the man who is looked at. And you will be looked at in such a way that they will tell you they are looking at you, they will let you see them looking at you, to make you nervous enough to get you making a mistake. They will watch you until you make a mistake.

MR. AROUCA: The carmen are particularly unique in that

respect. It is very -- I don't think a lot of other crafts necessarily have -- I mean, perhaps some of them do, but as you've seen from what the carman job is on a daily basis and knowing what we're legally held to out there on the property, like legally have to make sure everything -- it is very easy -- if you put a target on your back, it is incredibly easy for them to discipline you in the week following. All they have to do is walk around and make sure you miss a safety handhold or whatever. They write you up, you know, and say, well, you missed all this stuff. You know, they're the ones forcing you to miss all of it or even often telling you to take the -- rip the bad order tags off. I mean, it's really -- that's why it's so hard, so rare to get a lot of this stuff out. These guys are very, very scared in a lot of respects.

And the other thing I do want to make mention of and I'll be super duper fully honest with -- and you know this and every single one of my other -- the other carmen reps tell me this all the time, our guys do not necessarily see -- and it's highly dependent on property -- do not see the FRA rank and -- their field folks as their friends. They do not see them as their friends. They see them as friends of the bosses. Oftentimes they show up on these properties, the local inspectors, they spend about 20 minutes in the shop and then they all go to lunch with the management. It is incredibly too comfortable, in my opinion, for a regulator to be that close to those who he regulates, he or

she.

We have had issues where our guys have raised issues through us all the way to the top of the FRA to the head of the safety office. We have issued complaints, and then 2 days later, our local chair in that yard has an angry voicemail from his manager saying whoever keeps calling the FRA, he's got to stop.

So I'm frustrated, and that's not -- you know, that's a one anecdotal thing, but that's the culture that a lot of our carmen see. And again, it's highly dependent on the yard and on the inspectors themselves. Some of them great, but a lot of them, you know, it feels very revolving door-ish, you know, where they're just way too tight with the industry and, you know, you issue -- they're supposed to be the ones that when you have a safety issue you can go to them and say this isn't good what we're doing here, this isn't the right way to run things, etc., etc. They can't. I mean, the environment is such that a lot of the shops, a lot of yards, these carmen do not feel at all okay talking to the FRA when they show up, because they'll just have a target on their back the following week. And if it isn't the following week, it's a couple of months the road. You know, it'll wait till there's not a direct cause and effect, you know. And maybe if the -- you know, they'll wait until the, you know, the DOL changes over, you know, they're not interested in, you know, pursuing OSHA claims. You know, they'll wait, but they will get theirs and that retribution will be swift. And it's just tough.

So, I mean, that's why it's very hard. I feel like I've presented you guys kind of quite a bit of information now and I haven't even talked about the other railroads, regarding the pressures on inspection times, and yet, the chief safety officer at the FRA apparently is still walking around saying, yeah, it's a lot of perception, it's a lot of perceived pressure. I don't know how much more evidence I can provide our government that this is happening out there and that it's an inherently unsafe practice. Like this is a safety inspection, it's a mechanical inspection and it's principally about safety. So why are we placing time constraints, especially really restrictive time constraints?

And, you know, that's what the hearing was about, a lot of the back and forth. And particularly, Senator Vance asked Clyde Whitaker, the conductor guy, about, you know, inspection times, and Vance asked Ian Jefferies, the president of AAR, whether he thought 30 seconds to inspect a railcar was enough time. And even Ian said, that doesn't seem like a lot of time to do an in-depth inspection. I mean, duh.

MR. COX: And it's really convenient for the railroads to turn around and promulgate 30 seconds a side on a railcar and then, if something is missed and they're taken accountable to it because something was missed, to come back and scapegoat the inspector for missing it.

DR. JENNER: Um-hum. Sure.

MR. COX: They have their cake and eat it, too.

DR. JENNER: Sure.

DR. GARCIA: We've been going for an hour and half now. I need to move my car.

DR. JENNER: Okay.

DR. GARCIA: If we can continue?

DR. JENNER: Yes.

DR. GARCIA: Because 4 o'clock it turns -- so do you want to take a break?

DR. JENNER: Sure.

MR. AROUCA: Sure.

DR. JENNER: Well, let me ask you before we do. How much longer do you --

MR. AROUCA: We're almost -- I think we're almost done, unless you guys, unless you guys -- it depends on how many follow-up --

DR. JENNER: I don't have any follow-ups.

MR. AROUCA: -- questions you guys have.

DR. JENNER: You've been very clear about that. So let me just throw it the people --

DR. GARCIA: I'm good.

DR. JENNER: -- to Mike and Bob.

DR. HOEPF: Yeah, thanks. You know, I've got a few follow-up questions that I could ask, you know, if -- Anne, if you want to hit the road and we can follow up as an entity. Or --

DR. GARCIA: Well, no, I don't want to --

DR. HOEPF: -- you know, if you just want to close it down now today --

DR. GARCIA: Sorry, Mike. I don't -- Mike, I don't want to cut you off, but I want to be here for the entire interview. So if it's going to take more time, then we can just take a break and I'll go move my car and come back.

DR. HOEPF: Okay.

DR. GARCIA: So, Bob, what are you thoughts?

MR. AROUCA: Are you on a metered spot?

DR. BEATON: Well, I do have --

DR. GARCIA: No, but the street had a sign up that said 4 o'clock to have your car moved.

DR. BEATON: -- I'd like to follow up on and, you know, if I can get 10 minutes, I think I can get through it.

DR. GARCIA: Well, let's take a break. We'll take a break --

DR. JENNER: We'll pause.

(Off the record.)

(On the record at 4:02 p.m.)

DR. JENNER: Okay. We're back on the record, and it is 4:02 p.m.

MR. AROUCA: So one thing I wanted to make sure that you guys had were a few documents that show -- and I know this is your -- perhaps outside of the scope of your investigation into the safety culture of specifically Norfolk Southern, but to show that it's commonplace throughout the industry as PSR has invaded the

industry, this is a memo from a Union Pacific shop foreman at Proviso Yard in Chicago to its carmen detailing new instructions on time limitations regarding inbound and outbound car inspections.

We also have a time claim dating back to 2016 when PSR was just invading CSX, and the --

I mean, this is -- we're okay with submitting this, right?

MR. COX: Yeah.

MR. AROUCA: Yeah. It allows us -- I mean, this is kind of the first time we were really trying to fight against this, you know, when it invaded the DUS Class I's, and -- or the Big Four, I guess, and details the 1-minute per car directive from the company as well.

DR. JENNER: And the title of this?

MR. AROUCA: That is a time claim, so it's a claim that the Brotherhood of Railway Carmen filed with the company challenging their -- you can speak more to that document, right?

MR. COX: Yes.

MR. AROUCA: Does that -- did I get it right?

MR. COX: Yes. Yes. They -- when they respond to it, they, for the first time -- it was really hard to get any documentation or anything in writing, but when they responded to that claim, they made a statement to me in their response that the industry standard is 1 minute per car. And that's why that's -- that's why, because any other time -- it was the first time they ever

committed it to writing.

DR. JENNER: Industry, so across the Class 1 railroads, right?

MR. COX: Um-hum.

DR. GARCIA: So who is this? This is directed to the director of labor relations.

MR. AROUCA: CSX.

DR. GARCIA: CSX. Okay.

MR. COX: CSX, yeah.

MR. AROUCA: So that was that. And then I wanted to provide a copy of Don Grissom, who was then an assistant general president of the carmen, now is general president of the carmen -- this is his testimony before the House railroad subcommittee last June detailing a whole number of issues in the industry, you know, pressure not to shop cars, the inspection times in general, 1 minute per car, being commonplace.

DR. GARCIA: What does it mean to shop cars?

MR. AROUCA: Not to send cars to the shop for repair.

DR. GARCIA: Okay.

MR. AROUCA: Yeah, to bad order them, you know, find defects essentially. You know, one would think that if a car's defective, a car's defective. Well, not in the rail industry. A car is defective if we have time for it to be defective, which is kind of odd.

MR. COX: Or a dangerous outlook in the industry is that if

the car will make it to the next carrier, then -- they proffer this idea, let it make it to the next carrier because it's no longer our problem.

MR. AROUCA: Right. This is a -- along those same lines, this is a signaling system they actually had -- I believe this was a CSX shop, right? Yeah.

MR. COX: Yes.

MR. AROUCA: They called it a traffic light. It specifically detailed how many cars were in the shop, and therefore, if it was three reds, they got way too many cars in the shop, and so that's an indication to the carmen going out and inspecting, don't find any more defects, we can't handle them right now. And I remember we challenged CSX on that, right, and then they said, oh, that's a holdover from a previous era. Well, they just lose the whole thing internally to a secret --

MR. COX: Behind a firewall.

MR. AROUCA: -- computerized system with the exact same culture, you know, saying whether or not they have the ability to do, you know, do these fixes.

And then -- I kind of went through the safety audit, but I actually want to talk specifically about this list here, because that comes -- this comes back to, again, the industry practice for moving our carmen from these yards and replacing them with either these utility clerks or utility crews, which are not trained carmen to do these inspections, or just having the traincrews do

themselves. This is one of the primary, you know, in my opinion, probably one of the primary ways they've been able to reduce all this terminal dwell. Again, coming back to the 215 mechanicals, if you replace all these carmen in all these shops with utility folks who are not trained to do it, when --

DR. GARCIA: And this is all UP?

MR. AROUCA: This is UP, yeah. This is CSX.

DR. GARCIA: Um-hum.

MR. AROUCA: Yes, CSX. This is Union Pacific, in particular.

And then, yeah, we kind of get into some of the fatigue. It's got some of the fatigue issues, you know, that Jason has described previously about guys sleeping in their cars, 16-hour days, 5 days in a row. You know, and this isn't a 16-hour day sitting in your office, this 16-hour days on your feet working around heavy dangerous equipment. It is not, in our opinion, the right way to go about any kind of an industrial job.

DR. GARCIA: So to ask a question that I think I know the answer to, these are not safety-sensitive positions and there's no hours of service regulation?

MR. COX: Yeah, not safety sensitive under the definition of the FRA, you are correct. So there's no hours of service linked to them.

MR. AROUCA: Correct.

DR. GARCIA: Okay. Thank you.

MR. AROUCA: And some of the stuff I've detailed, this is

actually the same -- this is the same email correspondence as part of that claim, right --

MR. COX: Yes.

MR. AROUCA: -- back in the day?

MR. COX: Yes.

MR. AROUCA: That one says 2021, though. Or is that when you forwarded it to me? Or when Don forwarded it?

MR. COX: Yeah, this is right here where I re-explain to them that the from day 1 we have contested the policy 1 minute per car.

MR. AROUCA: Yeah. Right. Yeah. Yeah.

And then the UP document that you have and the score card as well. But that's a copy of the docs --

DR. JENNER: Right. It looks like you have a few more documents.

MR. AROUCA: Actually this --

DR. JENNER: Oh, is that it?

MR. AROUCA: This, I was just going to give you guys because we pulled them today as proof, because for some odd reason, according to Senator Vance in the Senate hearing, the industry is saying that they don't need to visually inspect bearings. And, well, here's the manufacturer's instruction guides and their full manual or larger manual on installing and maintenance, and both of them say that they should receive visual inspection every time they're in a terminal or a repair track, which is in line with the FRA rules and guidelines.

So these guys, I don't know what they're doing, what they're thinking with this business model. It's clearly gone pretty far. And, yeah, we're just hoping to shed a whole bunch of light on this industry, on NS, but the industry as a whole as well, because this practice is pervasive. So --

DR. JENNER: Okay. I want to be respectful of my colleagues' time here. So, Bob, you had a lot of questions, perhaps?

DR. BEATON: Yeah, thanks, Steve. I'll try and be brief. And, Jason, David, thanks for allowing us to go over a little bit on our scheduled time here.

There's a couple things I want to talk to you about and ask you about, not in any particular order. So let me, you know, apologize in advance for being a little random here in my questions. But I want to start with this time to inspect a car by a carman, 3 seconds -- or 3 minutes, I'm sorry, per side. Jason, I can see his eyes light up.

MR. COX: If the railroads have their way, we'll get there.

DR. BEATON: Yeah. No, no, I don't think we will.

The carman trade presents a truly unique trade for us in the system safety/human performance division at NTSB because your job is, as I understand it, based entirely on visual inspections and then some -- to detect an anomaly and then maybe some follow-up with a measurement or a probe or a gauge to verify. And when I hear a number like, you know, 3 minutes or 3-point whatever, and I look at this visual inspection task, I know, just based on 40

years of doing this stuff, not all in the rail industry, but from a visual inspection point of view, there's a lot of variability, there's a lot of dependencies on the conditions in which the observations are being made, that is, the environment, there's a lot of dependencies on the carman himself and their visual acuity, the corrective glasses, the sunshades or sunglasses, what have you. So a number like 3 seconds, to me --

MR. AROUCA: Minutes.

DR. GARCIA: Three minutes?

DR. BEATON: -- is one of these numbers -- I'm sorry? What was that?

MR. COX: You said 3 seconds again.

DR. BEATON: Oh, I apologize. Three minutes. Thank you for correcting me. Three minutes feels to me like a number that's been derived by some group of people, skilled or not in measuring human performance, coming up with an average value with no attention being given to the variability, or in the language of the statisticians, you've got an average value but you don't have an indication of the variability or the standard deviation. And anybody that's involved with quality control processes would say that the average is meaningless without some indication of the variability because you have no idea of what the acceptable range of times are.

So having given you my mini lecture on that, I apologize, but wanted to set the context, can we do anything to collect some data

or some observations on the carmen actually inspecting cars under different, maybe different conditions with different number of defects, to get an idea of how realistic or unrealistic is this 3-minute number? I mean, and I don't think I want to go on NS property, but would there be a railroad that would allow us and would TCU provide some carmen to us to allow us to go maybe spend a day in a yard doing some time studies of the task of inspecting a car?

Because the other point I wanted to make here is, I don't believe that 3 minutes is inclusive of the time it takes the carman to do the job. The carman has to walk to the car. The carman has to walk the length of the car, bend down and assess the defects that they detected, and then, I assume, take notes or dictation or get on a handheld computer and type something in. I don't think there's a bar code that he scans for every defective handle that he finds, so --

Yeah, I'd like to capture the entire job of inspecting one side of a car. So my -- I --

MR. AROUCA: We would love that.

DR. BEATON: -- but could TCU help us identify a railroad that would work with us and identify some carmen that would work with us to make some deliberate observations of inspecting for defects?

MR. AROUCA: My initial thought is I am -- I can near guarantee that the company is not going to do that for us.

DR. BEATON: Okay.

MR. AROUCA: They are already well aware of the line of questioning we're kind of already going down here and as exampled on Capitol Hill in that hearing. For you guys, I have no idea if you have the ability to say, hey, we're coming here with our stop watches.

DR. JENNER: Well, I think Bob put out the possibility of any railroad.

MR. AROUCA: Yeah.

DR. JENNER: It doesn't have to be any one that --

MR. AROUCA: But all of them are same --

DR. GARCIA: All would have the same reservations?

MR. AROUCA: -- the same model.

DR. JENNER: Okay.

DR. GARCIA: But to Steve's point, Bob, we could ask Norfolk Southern for that opportunity independent of the union.

DR. BEATON: Yeah. I don't think Norfolk Southern's going to give us the carmen or the cars and allow us access under, you know, day and night conditions or different illumination conditions. I just want to try to do something to get a feel, because I think people are going to grossly abuse this number, 3 minutes a car.

MR. AROUCA: So it's funny that you say that, because one of the things that we were talking about earlier today with our leadership was the concept of putting together a video showing,

you know, what an inspection looks like and --

DR. GARCIA: There we go.

MR. AROUCA: -- and clocking it. I know it wouldn't be necessarily as holistic as, you know, spending an entire day and watching carmen rain or shine, night and day, and averaging them all out, but it would give the layman a better understanding of what exactly goes into a car inspection.

DR. GARCIA: Um-hum. And the video could be done in nighttime conditions and raining conditions.

MR. AROUCA: Yeah. We were contemplating going to a railroad museum, actually. Because all these -- all the mechanics of these cars are -- they're still the same. I mean, that's why like the regs haven't really changed all that much. It's the same technology that's been on the rails for -- I mean, minor, you know, adjustments here or there.

DR. BEATON: They're still using a Janney coupler, so --

MR. AROUCA: Yeah.

MR. COX: And for some transparency of what's happening in the industry, with the new car inspectors that have been coming on over the years, the railroads have focused their training criteria more on the idea of delayed prevention versus finding actual defects with the cars.

DR. BEATON: Okay.

MR. COX: In other words, you know, you're focused on --

MR. AROUCA: Preventing the delay of the train.

MR. COX: Yeah. You're focused on the non-separation of the air hose versus looking at the safety appliances. There's been a shift in the way they train all these new carmen that are coming on, that they're not as in depth at assessing that total health of the freight car as much as they are of move the freight at any cost.

DR. BEATON: In my world, Jason, the language I would use to describe part of the issue you're bringing up to me is time stress. They're putting stress on carmen to get the inspections done as quickly as possible and not delay the movement of the trains. And we know that time stress is one of the factors that leads to errors. So by -- you know, whether we want to point a finger at PSR or we want to point a finger at, you know, operational efficiency, whatever language we want to use, we're working against ourselves from the point of view of allowing a carman to do a better and better job, we're actually forcing the carmen to do a job that puts them more at risk of making errors, which is not helping public safety.

MR. COX: Yeah. And --

DR. GARCIA: Just to note --

MR. COX: -- would taint your study.

DR. GARCIA: Right.

DR. BEATON: Yeah.

DR. GARCIA: Just to note here, my battery is running low so at any moment -- it gives me like a 30-second notice, which was

about 25 seconds ago --

DR. BEATON: Well, let me just ask one other question.

DR. GARCIA: No, Steve is trying to call up on his phone so we can make sure that you're still plugged in.

DR. BEATON: Okay. And I think Steve may have asked you this over the break, but you've given us a lot of great information today, you've given us a lot of evidence. We would like the -- to preserve a spot with you to come back for some follow-up questions. So I don't think I need to get all the answers to my questions today, but I would certainly welcome the ability to give you a call or send you an email to follow up with you, if not to have you come over to L'Enfant Plaza. You know, we have a great food court downstairs, if we do go to lunch, you know, have lunch together.

MR. AROUCA: Absolutely. Yeah, just a couple Metro stops down. Happy to do it.

DR. BEATON: Excellent. Thanks, David.

(Noise interruption)

DR. GARCIA: Yep. And it's shutting down. That was perfect timing.

MR. AROUCA: There we go.

MR. COX: All right. We've successfully swapped the devices.

DR. GARCIA: Can you see any of us now?

DR. JENNER: They're looking at the ceiling.

DR. GARCIA: Yeah, they're looking at the ceiling. Hold on.

MR. COX: Oh, there you go.

MR. AROUCA: That work?

DR. BEATON: There we go. Now -- that's good. Now I see Jason.

MR. AROUCA: Or do you want landscape?

DR. BEATON: I'm not hearing anybody, but --

MR. AROUCA: Uh-oh.

DR. BEATON: -- I'm getting good video.

DR. GARCIA: We're here. Can you hear us?

MR. AROUCA: No. Microphone.

DR. BEATON: There you are.

DR. GARCIA: Now can you hear?

MR. AROUCA: There we go.

DR. BEATON: Now I can hear you, yeah.

DR. GARCIA: Can you hear me now?

MR. AROUCA: Okay.

DR. BEATON: Perfect. Thank you.

MR. AROUCA: All right. We're back.

DR. GARCIA: Good.

MR. AROUCA: Yeah, we're absolutely happy to continue participating. You know, let me know about the video and whether we could transcribe it. That would be probably amendable. We'd have to go back to the guy and ask, but -- absolutely. And, you know, I would love to follow along with you guys as this progresses. What's your -- you mentioned you have a tight

timeline on this. What does that mean? How do you --

DR. BEATON: Right. As of Friday, this past Friday, NTSB's still planning on have the hearing out in East Palestine around June 22nd, 23rd. We have to be completely dressed up with a factual report that's been vetted through the party members on the East Palestine investigation and passed our editors. So we've got realistically, you know, between now and the end of April to get the bulk of our factual assessment done. So -- and this is very unusual for an NTSB investigation, but we're trying to be very responsive to what the chair promised in her -- or the press release from the agency, that we'd be doing a -- I don't want to say deep dive, but a comprehensive assessment of Norfolk Southern's safety management and safety culture.

And I probably should comment. Safety management to us is what, David, what you said before, let's start with the regulation. We got 49 CFR 271. Let's see what Norfolk Southern's doing with respect to that. They've got a FRA-approved plan. So how well is that plan being executed? You know, we'd like to go to the properties that were named that is justifying this investigation and talk to carmen, talk to T&E crews, to see what their safety management vis-à-vis 271 is really -- how is that affecting daily operations. Safety culture is a little bit more nebulous and want to do interviews with carmen, T&E crews, and others, to -- you know, kind of what we were talking about here today, get an indication of, yeah, they may have things on the

books and they may be compliant with the spirit of the regulation, but it's not getting translated to the workers. If nobody wants to use the C3RS because of retaliation, that's a culture problem.

DR. GARCIA: Yeah. Bob, could I just pause for a second? I just want to make sure that if we want to push any of this conversation to when we go off the record or --

DR. BEATON: Okay. Yeah. Well -- thanks for that. Yeah. No, I think I'm done. I just wanted to explain that to David and Jason so, you know -- let's give them the context of how they can help us do what we need to do.

MR. COX: Yeah. And you talk about, you know, interviews of the workmen and stuff like that. I will draw upon my own personal experience with what I've seen in the industry with the FRA. Like, for instance, the FRA will come on the property and say, if you don't mind, I would like to talk to inspector so-and-so, and supervision on the property will say, oh, sure, I have no problem with letting you talk to inspector so-and-so, let me get him. And he hauls him into his office, and the foreman sits down next to him and says, okay, what questions do you have for him? And the foreman sits right there staring at the guy the whole time. I mean --

DR. BEATON: Yeah.

MR. COX: -- you know what I'm getting at.

MR. AROUCA: Hence my earlier comment that our -- it is -- the FRA is not necessarily viewed favorably by a lot of mechanical

personnel or the operating crafts. They're viewed as somebody that can get them in trouble.

DR. BEATON: Right. Well, they are the regulator and they're usually out there on the property not to have lunch, but to find violations, right? That's their job.

MR. AROUCA: One would hope. That doesn't seem to be the case often, unfortunately.

DR. BEATON: Yeah. Yeah.

MR. AROUCA: We have a lot of frustrations with that.

DR. BEATON: Understood. Okay.

MR. AROUCA: Is there a possibility, if you guys do come onto the property and meet with carmen, that, you know, that it could be in a separate setting or off of -- preferably off of the property, like going through our locals and setting up a local meeting?

DR. BEATON: Yeah.

MR. AROUCA: That would --

DR. BEATON: Yeah, we could certainly do that.

MR. AROUCA: Yeah, that would go so much better than meeting in that -- you know, the break room at --

DR. BEATON: Yeah. And we've done that. And I understand that entirely. So, you know, maybe we get a -- meet in a local hotel, you know, get a meeting room or something like that.

MR. AROUCA: Yeah. Jason can help set that up, too.

MR. COX: Yeah.

DR. BEATON: Excellent. Well, I know I've taken up more than my 10 minutes, so I'm going to stop here and just thank you both. It's been a great conversation today.

MR. AROUCA: Oh, thank you, Bob.

DR. JENNER: I'm going to throw it over to Mike. Do you have some questions?

DR. HOEPF: Yeah, I do. I do. And I'll try to be quick. I know we've been going for a while. Is everybody doing okay?

DR. JENNER: Are you guys okay to --

MR. COX: Oh, yeah, we're good.

MR. AROUCA: Yeah.

MR. COX: Whatever's needed.

DR. HOEPF: Okay. Awesome. I'm going to try to stay on the topics we've already covered and just kind of quickly go through a couple things. So on the topic of those inspections, I think we've covered this pretty well in terms of the (indiscernible), but just to kind of summarize briefly. You know, I think there's a lot of value that could come from that, how long does it take it to inspect a car. But it sounds like from what you're telling us, it's -- that would be looking at the issue too smally, to say, oh, it's definitely a matter of -- that's making the assumption that we've got a qualified mechanical inspector or carman doing those inspections. It sounds like a lot of what you told us today is that's not that necessarily happening. It sounds like the number of inspections are being minimized -- I see you're nodding your

head there, but -- so, yeah, maybe we can just kind of summarize. So that's -- the mechanical inspections are being deliberately avoided; is that something you're telling us?

MR. AROUCA: Oh, yeah.

MR. COX: Yeah, yeah.

DR. HOEPF: Okay. And --

MR. COX: And even in --

DR. HOEPF: Oh, sorry. Go ahead.

MR. COX: -- situations where the regulation, you know, basically says, you know, the mechanical inspection is not required, with the way that the railroads are currently structured, they can get away with that indefinitely and basically run these -- run the wheels off the cars, I mean, for lack of a better explanation. I think that puts it in layman's terms quite well.

DR. HOEPF: Yeah. Right. And so it's -- thank you. And don't let me cut you off if you wan to add something to that. But it sounds like you've also said that they're pushing those inspections to people who are perhaps less qualified. Is that an accurate summary?

MR. COX: By design in their current training, yes.

DR. HOEPF: Okay. Okay. So there's the issue of the time sensitivity but there's also the issue of avoiding inspections and there's also the issue of qualification with regard to those inspections. Is that that -- did I miss anything?

MR. AROUCA: You nailed all three.

DR. HOEPF: Okay. Okay. Great.

MR. AROUCA: Those are -- that is the summary.

DR. HOEPF: I just wanted to make sure we're --

MR. COX: Big picture stuff, yes.

MR. AROUCA: Yes.

DR. HOEPF: Okay. Awesome. And we'll follow up with you guys on the data and that sort of thing.

So the bigger picture we're here to talk about is culture, you know, safety culture, safety management system. And we've definitely talked about that, but I just kind of want to hear some of the words come out of your mouth. So some of the words that -- or this is not nuanced stuff. I've heard the words harass, intimidate, threaten, retaliate, people have been instructed -- oh, another issue I forgot to talk about on the inspections, people have been instructed to effectively not find defects. So that's another issue with -- it's not so much a matter of they don't even -- I mean, a lack of time is one thing, but it seems like they've specifically incentivized to not find issues. So --

MR. COX: Incentivized to not find issues.

DR. HOEPF: Is that an accurate summary?

MR. AROUCA: No, you're right. That nails it.

MR. COX: Yeah. Incentivized not to find issues in many, many horrific tactics, yes.

DR. HOEPF: Okay. Thank you.

MR. AROUCA: I mean, you saw the video or maybe perhaps you couldn't -- you heard it over the computer, but, you know, that was from, sadly -- we kind of went back and forth internally on this for a minute, but that was a supervisor that our guys like. He's a decent guy. He's not, you know -- but you can hear it in his voice that the bosses are making me do this. And that's why our guy went back and asked, who? What bosses are making you do this? The district manager of operations, the district mechanical manager of operations.

And so it's really this top-down stress. I mean, that's what's so frustrating to me, by the way, like they're going to -- the guys up top in their ivory towers are going to say, I knew nothing, I knew nothing about this, I don't know what -- I just took over last year, how could I have known anything? Crap. Absolute crap. They've known the culture shift at this company for years.

And, you know, by the way, not for nothing, he said -- Shaw says repeatedly in the hearing that I reached out to -- well, first, he said, I reached out to all my major union heads to talk to them about safety. Our bosses didn't get calls. I have no idea who he called. Probably just the operating crews, the conductors and the engineers. They didn't call us. And you would think he would call us, considering the Brown-Vance bill. Section 4 is all about railcar inspections. And your train derailed from a blown bearing.

DR. HOEPF: So --

MR. AROUCA: You know, you would think that would be an issue.

DR. HOEPF: Yeah.

MR. AROUCA: But that's, that's them right now. And you'd think that he would have gone back, at least in that -- like prior to prepping for that hearing, and ask his chief mechanical officer, hey, do we have any time constraints, any policies regarding railcar inspections, anything like that? Maybe a sheet detailing inspection times? Have we ever pressured our guys in the past?

DR. HOEPF: Right.

MR. AROUCA: Just a concept.

DR. HOEPF: Well, I guess what I'm getting at is -- no, and this is really good stuff. But, I mean, it sounds like what you're saying, and correct me if I'm wrong here, but it sounds like you're saying Norfolk Southern does not have a safety culture to support effective mechanical safety inspections.

MR. AROUCA: Correct.

DR. HOEPF: Okay. Okay. Great.

DR. GARCIA: If I could jump in there, Mike, just for --

DR. HOEPF: Yeah.

DR. GARCIA: -- a point of clarification? When you mentioned using people unqualified to do the inspections, that wasn't the way that I heard that. I heard it that relying on the traincrew

to the do the 12-point inspection, who aren't qualified to do the more than 90-point inspection.

MR. AROUCA: Yeah.

DR. GARCIA: But that's all within, that's all within the regulation, right?

MR. AROUCA: Correct.

DR. GARCIA: So that's permitted?

MR. AROUCA: Permitted, perhaps. It depends on who you ask at the FRA.

DR. GARCIA: Okay.

MR. AROUCA: I've had conversations with -- like half the folks I talk to at the FRA, 10,000 percent agree with me, the other one -- the other half are like, well, I think it's okay, like, you know, it seems like it's an okay way to do it.

DR. GARCIA: Yeah, the Appendix D.

MR. AROUCA: Yeah. And they're like -- but if you read the reg, I mean, read it -- any layman with reading that would say, okay, so really what they're saying is it should get this mechanical inspection, unless there's not a carman there, then it can get the Appendix D. Not for that to be the default rule.

DR. GARCIA: Right.

MR. AROUCA: It's supposed to be the exception when, on occasion, when a carman's not there, conductor can do it.

DR. GARCIA: So perhaps, for that, instead of using people unqualified to do the inspection, it's using a limited inspection

versus the full inspection?

MR. AROUCA: Correct. But I guess they wouldn't be qualified to perform the full mechanical. That's my -- that's our point in saying that, you know.

DR. GARCIA: Right.

MR. COX: And even the train crewman -- and I like this layman's explanation. They will say that the train crewmen holds the associate's degree in car inspection, whereas the carmen holds the doctorates.

MR. AROUCA: Whitaker said that in the hearing. You know, they're the -- the carmen are the Ph.D.s, we just have an associate's. It's like, yeah, looks about right versus these guys, yeah, they have gauges, all this stuff to ensure everything's, you know --

DR. GARCIA: Okay. But they're not using the conductors to do the full 90-point inspection.

MR. COX: A conductor does not even know how.

DR. GARCIA: Right. Right. But that would qualify for unqualified to do it. He's qualified to do the 12-point inspection.

MR. COX: Correct.

MR. AROUCA: Um-hum.

DR. GARCIA: Okay. But the railroad's using a loophole for Appendix D to do more of the 12-point inspections and less of the full inspections.

MR. COX: Yeah. They have taken advantage of the system to take what was supposed to be a secondary type of inspection criteria in order to get the freight to a terminal or something, where the primary inspection criteria would be followed to gauge, like I said before, the overall health --

DR. GARCIA: Right.

MR. COX: -- of a freight car.

MR. AROUCA: Right.

DR. GARCIA: Okay. Sorry to interrupt your train of thought, Mike. I just wanted --

DR. HOEPF: No, no. Thank you, Anne, for -- yeah, I appreciate you jumping in to clarify that. That was a good thing to clarify.

So on the topic of safety culture, and again, I want to be respectful of people's time here, but it sounds like this is a -- what you're telling me is that this safety culture issue undermines other safety programs as well. So, for example, I heard you talk about there was a replacement of one safety committee with a new safety committee; whereas, the old safety committee was effective and the new one is not.

MR. AROUCA: Well, previously there was a labor-management safety committee structure, and they were on -- they were at, you know, location by location. And that was, you know -- that is a globally recognized best practice, as I'm sure you guys are aware. And then PSR entered and apparently -- I mean, this is the excuse

I've heard, you'd have to ask them, but they were concerned about being too liable for FELA suits if issues are raised and they didn't address them and someone got hurt, which I think is a terrible reason, frankly. I think that's exactly why you should address it.

But they did away -- all of them did away with the labor-management safety committees when PSR kind of entered their railroads at the same -- at certain times, which -- the other one you were talking about is the risk reduction programs that have been, you know, put in place for, what, a year and a half or so. And they're kind of a joke. Like Jason mentioned, it was a Zoom call where they just said this is what we're doing; okay, end call. There was no back and forth interaction, really nothing. I mean, I got, I think, something in the mail once, a big stack of papers, and I'm like, what the heck am I looking for?

DR. HOEPF: Yeah. So would you say that that's an accurate assessment, to say that they replaced one safety committee that was effective with one that is not?

MR. AROUCA: Yes.

DR. HOEPF: Or are these two totally different -- okay, you agree with that? Okay.

I think you had also talked about a close call reporting system, and I think you said it's not anonymous and I think you said that employees, for fear of retaliation, don't utilize that close call reporting system? So is that --

MR. AROUCA: Well, they just --

(Crosstalk)

MR. AROUCA: -- they just agreed to start using the C3RS.

My concern about the C3RS in itself is that at the end of the day, even if NASA is the one that's holding the data over there, at the end of the day it's the FRA that's going to be the one utilizing and accessing the data, and frankly, our guys don't really trust the FRA, at least, you know, some of them don't, you know, in the Office of Safety, not the leadership leadership. In the Office of Safety it's been fairly problematic, and there have been issues raised at the D.C. level that our guy ends up getting chewed out by his manager because they called the FRA. I mean, how is that handling complaints seriously? How is that making sure that you're providing a culture where people want to speak up?

DR. HOEPF: Right.

MR. AROUCA: So --

DR. HOEPF: So, just see if I can clarify. So there's two close call reporting systems. There's an internal Norfolk Southern one that's not anonymous. There's incoming close call reporting system, C3RS. And you're saying neither one is effective? Sorry to cut you off, but is that accurate?

MR. AROUCA: I'm not aware -- is there an internal one?

MR. COX: Not that I'm aware of.

MR. AROUCA: Yeah, we're not aware of an internal one

existing currently. NS just announced that they're going to participate in the C3RS program --

DR. HOEPF: Oh. Okay.

MR. AROUCA: -- administered by NASA.

DR. HOEPF: Okay. So currently there is no close call reporting system. So right now, or at the time of the East Palestine accident, if a carman were to have an unsafe situation, there is no system for him to report that, or her?

MR. AROUCA: No.

DR. GARCIA: Well, they just joined -- they said they were join or joining the --

MR. AROUCA: Oh, right. Yeah. Who knows?

DR. HOEPF: Okay.

MR. COX: Well, before the C3 -- I'm not familiar with the C3 system you're talking about, but the current practice in the industry was if there was an unsafe industry, especially after they got rid of the safety committees, the only way to really handle it is just take it directly to your supervisor. And if you're in a system of retaliation, is that going to be your first option, is that what you're going to choose to do? Are you going to be the one to jump up and down and raise your hand, say choose me next?

DR. HOEPF: Okay. Okay. So, just to summarize, there was no close call reporting system in place at the time of the accident that you are aware of. And --

MR. AROUCA: Not for mechanical personnel. I couldn't speak to -- for the operating crews.

DR. HOEPF: Okay. No, that's a -- yeah, I can clarify. This is just to your knowledge. This is just, you know -- I don't want you to speculate or anything like that.

And because of the safety culture issue, your experience has been -- with the carmen have been, for fear of reprisal or retaliation from Norfolk Southern management, they would be hesitant to report safety issues to their managers; is that what you're saying?

MR. COX: Absolutely that's what I'm saying.

DR. HOEPF: Okay.

MR. AROUCA: 100,000 percent.

DR. HOEPF: Okay. Okay. I just -- just making sure we're -- you know, I'm just trying to summarize these issues and make sure we, you know, cover this.

MR. AROUCA: Mike, it's not just that, it's that it's so bad that it's a joke now on the property. And that's what I was trying to remember whatever the --

MR. COX: Safety fourth?

MR. AROUCA: Not just the safety fourth, but like if someone says like they got -- someone gets hurt on the railroad, you say, no you didn't. No you didn't, because then all of a sudden you're going to be targeted. And I've heard that across our carmen reps and you -- I think you've told me that a couple of times, right?

MR. COX: Yeah. NS is the worst for it. There's not an injury that does result in a disciplinary investigation procedure.

MR. AROUCA: Right.

DR. HOEPF: Right. That's right, you said that. So it's not just close calls but even -- there's even in a -- would you say that there's -- that employees are disincentivized to report injuries then because of fear of retaliation? Okay.

MR. COX: Yes. Also 1,000 percent accurate.

MR. AROUCA: 1,000 percent.

DR. HOEPF: Okay. I've got -- I'm getting to the end of my questions here. I really appreciate you guys' time here. Are there any other major programs that we should be aware of, major safety programs that have similar issues because of a safety culture that doesn't support them, or we covered kind of the important ones as far as carmen go?

MR. COX: You have to have a safety program to take issue with it.

MR. AROUCA: I don't know if you heard Jason. He said you have to have a safety program to take issue with it.

DR. HOEPF: Okay. Okay. Definitely. There's not really any major safety program. Okay.

MR. AROUCA: I mean, they did -- they changed -- it used to actually -- I remember it was safety first back in the day when I first started at TCU. I remember somebody had like a whistle, a little NS whistle that said "Safety First." And now it's

literally fourth on their like internal, you know -- now it's -- the first three are get stuff out the door and the last one is and do it all safely. That's their new mantra that's up on the walls everywhere. So --

DR. HOEPF: Yeah.

MR. COX: I believe I've provided you examples of that.

MR. AROUCA: Right.

DR. GARCIA: Could you forward those to us?

MR. COX: Yeah.

DR. HOEPF: No, I appreciate what you're getting at. I mean, I think what you're painting is a picture of safety being a low priority. Would you say that's accurate?

MR. COX: Yes. Yes. The prior business model before precision scheduled railroading arrived with Hunter Harrison was that the product delivered by the railroad was a product of safety. In other words, you got the train there safe, you got the goods there safe, everything stayed on the rail. You didn't have to process claims for the goods being delivered because everything got there safe. Now under the precision scheduled railroading model, that is not the priority. The priority is just get it there, get it there fast, and get it there by any way possible.

DR. HOEPF: Gotcha. Gotcha. Okay. Great. That'd be great (indiscernible). Thank you. All right. Just one last question. I'm done with the safety culture questions, although, you know, Anne and Steve may have some more for you. But one of the

accidents that we're looking at occurred in Pennsylvania. It was a roadway maintenance machine. There was some mechanical issues that that roadway maintenance machine. Do you guys cover roadway maintenance machines or can you direct me to who would be a better craft trade to talk about for that?

MR. AROUCA: You mean maintaining the machines themselves?

DR. HOEPF: Yeah.

MR. AROUCA: Those would be the machinists.

DR. HOEPF: Well, so -- so looking at -- it's three of the four horns were corroded, so they were not operational.

MR. AROUCA: Yeah. The maintenance --

DR. HOEPF: So mainly -- somebody like that?

MR. AROUCA: The maintenance of locomotives and track and road trucks and all the kinds of equipment is performed by the machinists union and I can put you guys in touch with them. Actually, I printed off this directory in part to give it you.

DR. HOEPF: Okay. No, that's okay. We can talk about that off the record. I just meant to say, so when we're talking about pre-trip inspections, we're not talking about roadway maintenance machines, we're talking about trains? And you -- you're nodding your head yes?

MR. AROUCA: Sorry. Say that again.

DR. HOEPF: So I just wanted to say, all these inspections we've been talking about, we're talking about trains, not roadway maintenance machines, right?

MR. AROUCA: Yes.

DR. HOEPF: Okay.

MR. AROUCA: Railcars specifically and that's it.

DR. HOEPF: Okay. Perfect. Perfect. Thank you so much. That's all the questions I have. Thank you, guys very much.

DR. GARCIA: I have a question. So getting back to finding a defect on a car. Then you would tag it and report it, and what happens then? Is that car placed out of service until it's fixed or does it matter what level of defect it is?

MR. COX: Well, essentially --

DR. GARCIA: Some triage going on?

MR. COX: Yeah. It depends where the defect is found. If it's found on the delivery side inside of the yard, then when the cars are shifted out to be put into those different trains, you would take ahold of that defect and you would drop it down to the shop track. Or if it was in the outbound train, the outbound crew would pull their train up to the defective car, separate it, pull it up and shove it back and cut away from it, and then tie their train back up and depart. Either way, the cars all end up at the repair track, where they're hauled in. And depending on when the last time they've had a single car air brake test or other maintenance criteria performed on them, they would get that defect repaired and then all that other maintenance criteria under the double-AR would also be performed. And by doing away with the 215 mechanical inspection, by doing away with that process, you're

also doing away with the cars coming to the shop and having the additional double-AR maintenance performed on those cars to bring them into performance spec.

DR. GARCIA: Okay. Thank you. And so you mentioned pressure about removing tags.

MR. COX: Yes.

DR. GARCIA: Could you tell us more about that?

MR. COX: So as a car inspector, as I'm going down there and I'm performing my inspection, I'll reach in my back pocket and I'll pull an orange tag out and it'll have blank spots on there. Put the car number on there, write the defect that you discovered on the car on the tag, put the date on there, and if it has a movement restriction -- let's say I recognize that the car is unsafe to move more than 3-mile-an-hour yard speed, I would put that restriction on there. I grab my stapler, staple it to the defect card holder on the side of the car. And it'll be a bright orange tag. You know, it's meant to be that way so it's visible, so if a traincrew sees that car they know that there's potentially something unsafe with that freight car. Because I may have shopped it for a loose handhold. A crewman goes grabbing that handhold to hold onto that car and falls off that car in motion, that's a very serious -- I mean, I'm sure you've investigated -- okay.

So there are instances where carmen have been harassed or told by the supervisor, oh, I don't see that as a defect, you need

to go out there and remove the tags from the car. Or the supervisor, he'll go out in the yard and the tags will disappear from the car and the cars get released in the system. I have been in trials over the years where a car was released, went to another destination, shopped by a carman there. They hold the carman in investigation for shopping a car, just to find out, I discovered, that the supervisor released the car from another terminal. That was not on NS.

DR. GARCIA: So when you put the tag on, does it get entered into a computer base someplace?

MR. COX: If a car inspector shops the car, there's a 98 percent likelihood that it got put into a database somewhere.

DR. GARCIA: Okay. And when you put a tag on, would it always get shopped, that car always get shopped, or is it just the level of defect?

MR. COX: No. Once a tag goes on a car, the car is official -- it's shopped.

DR. GARCIA: Okay.

MR. COX: Yeah. It's -- that means an exception has been taken to the safety of that freight car on some component.

DR. GARCIA: So in the shop, then, what is the process for actually getting the tag removed and having the car put back in service? Who does that?

MR. COX: When the car comes to the shop -- and this is one of the jobs I've performed in the field. You have what's called a

double-AR write-up inspector. He goes out there and he inspects the car for all the double-AR criteria, which also is above the FRA criteria, which is also included in that inspection. You write them all up on a bill of repair. The car gets pulled into the shop and the carmen working the shop necessitate all the repairs. And if they happen to see anything, they will add it to the bill when they necessitate those repairs. The bill would come back into the double-AR write-up man. He would get into the computer system. He would bill the car to the car owner, the repairs to the car owner, and then go into that system and his name would be on the bill as releasing the car. And the tags are pulled by the inspectors on the shop, and then the car gets pulled out -- gets put out the other side of the shop. Transportation comes, ties onto the cars, takes them up to the shifting yard or switching yard, where they find their ways back into the appropriate train destinations for delivery.

DR. GARCIA: Okay. Thank you. So there's no tracking of these tags and whether the car is taken out of service and repairs done until it hits the shop. So when the inspector puts it on, if that tag disappears after the inspector leaves, the car doesn't go to the shop?

MR. COX: If -- yeah. Yeah, correct. If the tag is pulled or something is done with it prior to the data being put into the system, then, yeah, it would be like the shop never existed.

DR. GARCIA: Okay. And that's what you're saying, you have

people who have said that's been happening?

MR. COX: Right.

MR. AROUCA: Got a call about it today, literally about an hour before you guys got here.

DR. GARCIA: Do you have any list of that or any documentation to -- that you could --

MR. AROUCA: It's very difficult -- you know what would be good to look at is the safety survey that we put out there where a lot of guys reported that happening. But we try to tell our carmen you push back and you say give me that in writing. And some of them do, but again, because of the culture now and all of a sudden now you have a target on your back if you don't comply, a lot of guys don't. They just say, okay, sir, you know. And that's -- they have a million ways to get you, is what I'm trying to get across.

DR. GARCIA: Right.

MR. AROUCA: And so if you don't comply with their regime of an inspection process, not what you were trained and what you're qualified to do, you know, you're -- yeah.

DR. GARCIA: Right.

MR. COX: So a railroad safety book -- I mean, to expand what he just said. A railroad safety book, it's going to be about this thick and it's going to contain --

DR. GARCIA: About an inch thick?

MR. COX: Yeah. And it's going to contain operating rules,

thousands of them. And a supervisor will tell you -- if you are extremely good at your job, he will tell you, you know, I'm not looking today, but tomorrow I might be out in the train yard, you know, while you're out there doing whatever it is you're doing, and I'm pretty sure that out of these 3,000 rules there's probably something in there you did wrong. I mean, that's real-life world stuff that's happening.

MR. AROUCA: This would never happen in the airline industry.

DR. GARCIA: Right. Right.

MR. AROUCA: It's kind of absurd.

DR. GARCIA: Have there been instances where you've been told or some of your inspectors have been told while they're inspecting a train, and perhaps they're not meeting the time requirements that management is pushing for, been told just to stop inspecting it and let it go?

MR. COX: Yes. Or if there's particular time crunches, there'll be a rail that may have been ready to work and be inspected, and they'll say we're just going to have the crew take the air out of those cars so that we can switch them into the trains and you guys can get the inspections later. So they switch the cars out. Those carmen on first shift, as an example, go home, the carmen on the next shift go on. Do you think anyone told them that those cars in the outbound train needed a 215 mechanical inspection? No.

DR. GARCIA: So there's no records of that that are kept

there are handed off to the next shift coming in?

MR. COX: I can only think of, I can only think of one potential example, but it's still not 100 percent accurate. Trains on some lists will show that they need an MI, a mechanical inspection, but that's not a practice of the Norfolk and Southern.

DR. GARCIA: Okay. To go to a slightly different tact, another aspect about safety that we always look for are the safety of the individuals that are performing tasks. So can you think of any safety issues in actually performing your work that have come up for the people, the individuals who are doing the work?

MR. COX: Yeah. Walking conditions is usually a big one. The fact that they're not maintaining the yards and the spaces for which you do walk in, or hastily making repairs putting main line ballast down in place of where walking ballast used to exist. You know, you're talking about gravel, like graded stone that you would walk on versus -- yeah, this stuff that's made out of granite and does not settle or anything, and it always shifts under your feet.

DR. GARCIA: Yeah, that's 4 or 5 inches in diameter.

MR. COX: Yeah. And to circle back, in the prior part of my conversation where I told you, you know, you're walking around these cars also trying to mind your own safety. Because like I told you, on Norfolk and Southern, if you get injured, there will be an investigatory proceeding about that injury and how it's going to be all your fault. So you're trying to pay attention to

walk around safety -- safely around these cars in 30 seconds a side and still do the inspection? You tell me how it's possible.

MR. AROUCA: I would throw fatigue in there, too, as being a major problem.

MR. COX: Yeah.

MR. AROUCA: Yeah. When you're -- I cannot imagine it is wise to have people so tired, so exhausted, being around these unstoppable forces. It's just -- you doze off for a second, you walk into the -- like walk on a wrong track, you're, you know, a bug in a windshield. And we have, you know, Chattanooga, you know, that guy just walked across and there was a remote train and -- you know, I don't know if it was fatigue or if he -- yeah, if he was intoxicated himself, but --

MR. COX: So a carman has these wheel gauges. One is -- you might actually have a picture of it.

MR. AROUCA: I don't have --

MR. COX: But one is a finger gauge and the other one is a consolidated wheel gauge. One goes onto the flange of the wheel to determine if the flange is too thin. If the flange is too thin, it can pick a switch and actually one part of the car can actually start going down the wrong track compared to the rest of the train.

DR. GARCIA: What is this a picture -- oh, that's --

MR. COX: That's a picture of carmen gauges. Only carmen, only carmen have those. But this would be the flange gauge that I

was telling you about. One's for a locomotive and another one's for a freight car. And then this right here is the finger gauge, because the other thing you're determining is if the wheel rim is thick enough or if it's worn to the point where the FRA says it presents a shatter risk, where the wheel will just, you know, it'll break. So these are things that you're looking for. And if you could imagine being so exhausted that you make the misjudgment of working or being on the wrong rail and you got these gauges up on the actual wheel and someone couples this thing and pulls it on you.

MR. AROUCA: Yeah. I mean, it -- all of this is going to be downstream of fatigue. You know, the -- I don't think necessarily the -- and please correct me if I'm wrong, but the circumstances, the safety circumstances don't necessarily -- haven't really shifted, like the situational issues haven't necessarily shifted, so much as people being exhausted and being rushed. You know, I think being rushed at anything creates, you know, dangerous instances, dangerous occurrences, you know, and -- so, you know, that's, in a general sense, I would say the fatigue issue.

MR. COX: I do have an NS example of being rushed. So the car inspectors on this particular train missed an applied handbrake, manual handbrake. The train departed and shortly after departing a hot box detector detected the wheel at over 500 degrees. They stopped the train -- and I have the Atlanta dispatcher's document from this, a very rare thing to get, but

they just instructed them perform a set and release on your train and take it to destination. Don't -- God forbid, don't get out and look at it. Don't inspect it.

MR. AROUCA: Oh, that's right.

MR. COX: Yeah, that's the document right there. So --

MR. AROUCA: I had forgotten what that was.

MR. COX: Yeah, I was --

MR. AROUCA: I didn't want to give it to you without knowing that.

DR. GARCIA: Is that for us?

MR. AROUCA: No, you are, you are --

MR. COX: I can do it from memory.

MR. AROUCA: Oh.

MR. COX: So --

MR. AROUCA: But can we give this to them?

MR. COX: Yeah. Oh, yeah.

MR. AROUCA: Okay. Can you walk them through, explaining, you know, what that is?

MR. COX: Yeah. So that's the dispatcher's instructions to the traincrew.

MR. AROUCA: Okay.

MR. COX: And they say perform a set and release but don't inspect it. And then it goes through the next detector and it's still at over 300 degrees. They still didn't stop the train. It's very reminiscent of East Palestine, where they talk about

they pulled -- just kept pulling it. That train, because they pulled it so many miles without the wheels turning, slide the wheel so flat that it actually spread the rail and derailed the train. So there's a real-world example for you of what fatigue and these inspection times will do.

MR. AROUCA: And now they're punishing our carman --

MR. COX: The inspector for missing the handbrake. Of course, of course they are, because like I told you earlier, they're having their cake and they're eating it, too.

MR. AROUCA: Even though they ran the train twice over hot box detectors, just said keep going. And yet they're blaming a carman. It's very frustrating. I mean -- and by the way, I wanted to make sure that you mention the supervisor that got fired.

MR. COX: Yes. So he --

MR. AROUCA: Not necessarily our guy, but --

MR. COX: Yeah. He was a high band officer, and I heard, I heard through the -- of this through a contact of mine, but basically what this supervisor had the -- he was in a place to make a judgment call if he was going to stop a train or not for a non-secure load. And what had happened is at three places prior, this pipe -- and what I mean pipe, I mean steel pipe; it's this big around; it's about that thick, okay, and it's the length of a freight car. It's coming off the freight car. Okay. And this has happened three places prior and they eventually determined

that the shipper just did not secure this load in a way that was safe to move. He stopped the train and got fired for stopping it. He's handing that through litigation at the moment and I'm trying to see -- I'm talking to the person who is handing his litigation to see if he'd be willing to come forward on a more official capacity.

MR. AROUCA: He'd be a good person to talk to.

DR. GARCIA: Do you all also look at the load, what's in the car?

MR. COX: Yes. When a car inspector, especially when he's on the outbound, there are two load criteria that will draw an inspector's attention. Number one is there has to be a buffer of non-hazardous material between the locomotive and the hazardous material cars. If that buffer does not exist, a carman will call the attention to the yardmaster that the train needs to be shifted differently in order to be in compliance.

The other thing a car inspector will do is, while he's making his inspections, he will assess the load. And if it appears safe or shifted in some way, then he will shop or take exception to the load of that car for being an unsafe condition.

DR. GARCIA: Okay. Thank you.

MR. AROUCA: I got to wrap this up.

DR. GARCIA: Yeah.

MR. AROUCA: Can we continue at a later date, it sounds like maybe?

DR. JENNER: We can.

MR. AROUCA: Or remotely or whatever?

DR. JENNER: We can. And we'll -- we're going to digest some of this here and --

MR. AROUCA: It's a lot to digest.

MR. COX: A lot to chew on.

DR. JENNER: -- we'll make future plans.

DR. GARCIA: Well, let's go off the record and we can --

DR. JENNER: Well, before we go off the record, is there anything else you'd like to add at this point?

MR. AROUCA: Not at the moment, no.

DR. JENNER: Okay. Any immediate questions from Bob or Mike?

DR. BEATON: No, thank you. None from me. Thank you.

DR. JENNER: Very good. So I do want to thank you for taking time and talking to us.

MR. AROUCA: Sure. Thank you guys for doing what you're doing.

DR. JENNER: And we've heard that you are open to further discussions, so we appreciate that. If there are no other questions, then we will go off the record. It's 5:07 p.m.

(Whereupon, at 5:07 p.m., the interview was concluded.)

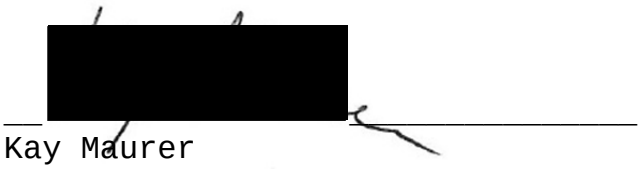
CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF:	SAFETY MANAGEMENT AND SAFETY CULTURE AT NORFOLK SOUTHERN Interview of Jason Cox and David Arouca
ACCIDENT NO.:	DCA23FM015
PLACE:	Washington, D.C.
DATE:	March 27, 2023

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.



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