

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹⁰ H.R. 2497, May 19, 2009

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

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

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

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