

**STATEMENT OF CAROLYN FLOWERS,
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**BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
SUBCOMMITTEES ON TRANSPORTATION & PUBLIC ASSETS AND
GOVERNMENT OPERATIONS**

EXAMINING THE SAFETY AND SERVICE OF D.C. METRO

April 13, 2016

Chairmen Mica and Meadows, Ranking Members Duckworth and Connolly, and Members of the Committee, thank you for inviting me to appear before you today to report on the state of safety at the Washington Metropolitan Area Transit Authority (WMATA) from the perspective of the Federal Transit Administration (FTA).

Safety is the Department of Transportation's first priority, and at FTA, the safety of public transportation passengers and workers is and will remain our highest priority. Transit is a safe mode of transportation, certainly much safer than a private automobile. However, serious incidents, crashes and safety lapses at WMATA Metrorail in recent years have highlighted the need for the system to make changes and improvements to ensure the safety of riders and employees.

WMATA is responsible for the safe operation of the Metrorail system, including the performance of daily inspections and preventative maintenance. When FTA stepped in to manage safety oversight of WMATA, its role became to verify WMATA's progress on implementing Corrective Action Plans and remedial actions, and to ensure that WMATA is effectively carrying out its own critical maintenance, operations, and safety training programs. FTA's role is temporary. Virginia, Maryland and the District of Columbia must create a new, stronger State Safety Oversight Agency that complies with federal law.

History of Federal Transit Safety Oversight

The U.S. Congress first granted FTA the authority to oversee the safety of public transportation with the passage of the Moving Ahead for Progress in the 21st Century Act (MAP-21) in 2012. Previous to this, Congress authorized transit safety oversight at the state level beginning with the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1991, pursuant to the National Transportation Safety Board's (NTSB) recommendation in a report entitled *Safety Study: Oversight of Rail Rapid Transit Safety*. MAP-21 built on the state safety oversight model by strengthening requirements at the state level, and including FTA as the federal overseer for the first time.

In the four years since Congress provided FTA with safety authority over transit agencies, FTA has reorganized existing safety and oversight functions, and established a new dedicated safety

office to develop rules and procedures for the federal safety oversight role. We have delivered a Final Rule on the State Safety Oversight Program, a proposed National Public Transportation Safety Plan, and Notices of Proposed Rulemaking for the Transit Agency Safety Plan and safety training certification. FTA is also exercising its authority to issue both safety directives and advisories to transit agencies and State Safety Oversight Agencies (SSOAs)).

In 2015, Congress strengthened FTA safety oversight with the Fixing America's Surface Transportation (FAST) Act, by providing explicit authority for FTA to assume the role of a non-functioning SSOA, on a temporary and expedient basis, and clarifying FTA's ability to withhold FTA financial assistance or direct the use of federal funding for safety purposes.

With the FAST Act, Congress has tasked FTA with undertaking safety oversight from an SSOA in limited circumstances – where immediate action is needed – and has provided enforcement tools for FTA to use in those circumstances. For the long term, safety oversight is vested in state oversight agencies that can oversee the many unique rail transit operations within their jurisdictions. With WMATA, FTA is fulfilling the short-term need with its temporary role as a state safety oversight agency, while at the same time requiring the development of an effective SSOA.

WMATA Chronology of Events

Over the last decade, WMATA has experienced several serious rail accidents resulting in the injury and death of WMATA passengers and workers. Among these accidents are the deadly June 2009 Fort Totten collision, resulting in the death of eight passengers and a transit operator and injury to 52 others, and the January 2015 L'Enfant Plaza smoke incident, which resulted in one passenger fatality and more than 90 injuries. WMATA has also lost eight workers in six collisions with trains and equipment on the rail transit right-of-way (ROW) during the same time period.

In response to concerns over WMATA's safety performance after the January 2015 L'Enfant Plaza smoke incident, FTA exercised its safety authority by conducting a Safety Management Inspection (SMI), which resulted in 54 safety findings, 44 for Metrorail and 10 for Metrobus. On June 17, 2015, FTA issued a Safety Directive 15-1 to WMATA identifying 91 required corrective actions to address each of the safety findings, and requested the WMATA Board to determine what changes to its Fiscal Years 2016 & 2017 budgets were necessary to effectively implement the corrective actions.

The FTA SMI Report identified numerous organizational deficiencies and operational concerns that significantly limit WMATA's ability to recognize and resolve safety issues for both Metrorail and Metrobus. In key areas, FTA found that WMATA did not effectively create a culture of safety or focus its resources on safety-critical operations and maintenance activities. In particular, FTA found serious safety lapses in WMATA's Rail Operations Control Center. In response, WMATA developed a plan to correct the deficiencies and in September 2015, FTA approved the WMATA Corrective Action Plan for Safety Directive 15-1.

The current state of WMATA's finances is also relevant to the discussion of their state of good repair and service delivery. In March 2014, FTA placed WMATA on "restricted draw down"

status after a standard financial management oversight review revealed several significant issues. As a result, WMATA must submit invoices or other supporting documentation to FTA to receive their federal funds. Since March 2014, FTA has reimbursed \$845 million out of \$880 million in FTA payments requested by WMATA, based on their provision of necessary supporting documents. Going forward, FTA will test WMATA's improvements to their financial system and accounting structure, and will make a determination in the future on when it is appropriate to remove WMATA from restricted draw down status.

Additionally, FTA conducts a thorough review of WMATA's grant applications to ensure that funds are directed to projects that support corrective actions arising from the SMI, NTSB safety recommendations, and infrastructure improvements. On March 29, 2016 FTA has also required that WMATA hold \$20 million in FY 2016 federal funds in reserve for urgent safety issues that may arise, rather than expending those funds on two non-safety related projects.

Current State of FTA Safety Oversight

On October 9, 2015, Transportation Secretary Anthony Foxx instructed FTA to temporarily assume the responsibilities of WMATA's state safety oversight agency, the Tri-State Oversight Committee (TOC). Under Safety Directive 16-1, issued on October 26, 2015, FTA assumed lead responsibility from the TOC for safety oversight of Metrorail, realigned the work the TOC will continue to perform at FTA's direction, and identified the activities for which FTA will be primary lead to achieve compliance with current federal law and regulations related to the rail transit State Safety Oversight Program.

Specifically, in this role, FTA will ensure and verify that WMATA implements the 91 corrective actions arising from Safety Directive 15-1 issued by FTA in June 2015, as well as more than 215 other corrective actions previously required by the TOC, but still unfulfilled by WMATA, some dating as far back as 2008. On December 15, 2015, FTA issued Safety Directive 16-2 to WMATA, requiring them to also address the TOC's open findings.

In addition, FTA is conducting on-the-ground inspections of WMATA, leading accident investigations as warranted and working to close out more than 140 open accident investigation reports. As Secretary Foxx made clear, FTA's role is temporary and will continue only until Virginia, Maryland and the District of Columbia set up a new State Safety Oversight Agency that is fully functioning.

On February 8, 2016, FTA informed the District of Columbia, Virginia, and Maryland that they must receive FTA certification of a new State safety oversight program – which includes creation of a new State Safety Oversight Agency (SSOA) compliant with Federal requirements – within one year from the issuance of the letter (no later than February 9, 2017). Pursuant to 49 U.S.C. § 5329(e)(8)(C), failure to do so could result in FTA withholding Section 5307 formula funds and/or taking other necessary and appropriate action.

Until a new state safety oversight agency is created, FTA is the best and most appropriate agency to provide temporary Federal safety oversight of WMATA because of its transit industry knowledge and expertise, technical ability, and enforcement powers. For its safety oversight role, FTA formed a multidisciplinary team of inspectors, investigators and auditors from FTA and

other DOT agencies, including the Federal Aviation Administration, Federal Motor Carrier Safety Administration, Federal Railroad Administration, and National Highway Traffic Safety Administration. FTA selected Sean Thompson, a highly experienced transportation industry safety and operations professional, to lead the FTA WMATA safety team.

FTA has staffed and trained our WMATA team while simultaneously carrying out critical safety oversight responsibilities for 29 other State Safety Oversight Agencies and 60 rail transit operators under our jurisdiction. On a daily basis, FTA's WMATA safety team conducts on-site inspections, verifies WMATA corrective actions, and conducts investigations. FTA has also directed WMATA's use of Federal funds to prioritize safety projects and purposes.

Three Jurisdictions Need to Create an Effective Safety Oversight Body

FTA's role is a critical but temporary one for safety oversight. It is long past time for Virginia, Maryland, and DC to create a new safety oversight body for WMATA Metrorail. As early as April 2010, the three jurisdictions began discussions to create a new safety oversight body – well before MAP-21 requirements existed.

In January 2016, Virginia, Maryland, and the District of Columbia reported they will not create a new safety oversight body this year as they missed their respective legislative deadlines to introduce proposed legislation. We are now in April of 2016, and very little action has taken place to move towards a fully functioning SSOA. It is long past time for Virginia, Maryland, and DC to create a new safety oversight body for WMATA Metrorail.

Maryland, Virginia, and DC entered into a Memorandum of Understanding (MOU) on February 25, 2016, which re-stated their commitment to establishing the Metro Safety Commission (MSC), but the jurisdictions need to take action on legislation to create the MSC. If the three jurisdictions fail to establish a new SSOA before February 9, 2017, they collectively risk having \$15 million in Section 5307 Urbanized Area Funding withheld from public transportation systems in their jurisdictions.

Until a new SSOA is capable of carrying out its responsibilities, FTA will continue to provide safety oversight, conduct inspections, monitor WMATA operations, and perform other activities to ensure the safety of WMATA's riders and workers.

Going Forward

To date, FTA has conducted 107 WMATA inspections that cover track, the Rail Operations Control Center, vehicle and systems maintenance, automatic train control, and traction power. During these inspections, FTA identified 229 defects requiring 66 remedial actions. For example, FTA identified wide gauge (distance between rails which can lead to derailment) in two separate sections of track between Huntington and Metro Center along the Yellow/Blue/Orange Lines during a track geometry vehicle inspection in mid-February. As a result of that inspection, single tracking was required around one section of track that was taken out of service and a speed restriction was imposed on another section of track until both sections were repaired.

Transparency in our safety oversight is a top priority for FTA. In December 2015, FTA created

and posted to its website a searchable WMATA Corrective Action Tracking Table (<https://www.fta.dot.gov/regulations-and-guidance/safety/wmata-cap>) to allow the public to monitor WMATA's progress on corrective actions. FTA updates this table monthly and items are shown as closed, open, or past due.

Starting in March 2016, FTA performed a three-part safety blitz operation which focused on key safety areas to follow up and address incidents, rule lapses, and poor maintenance practices identified by FTA's inspections to date. The key areas of concern included red stop signal overruns, handbrake usage, and track integrity. Inspection activities are ongoing, and we expect final reports with findings will be available by early summer, and will include any additional findings, which could lead to FTA issuing new safety directives to WMATA with additional corrective actions. As a part of this effort, FTA also conducted an audit of the faulty jumper cables which caused the March 14, 2016 McPherson Square fire incident. FTA's recent investigations have heavily focused on probing the state of WMATA's jumper cables.

Conclusion

While FTA does not run nor operate the WMATA system, we are providing direct and temporary safety oversight to verify WMATA's work towards improving its safety culture and operations. With direct safety oversight of WMATA, FTA has three primary goals: help WMATA improve its safety performance, ensure and verify that WMATA implements corrective actions, and assist local jurisdictions in speeding up creation of an effective SSOA responsible for daily safety oversight of Metrorail as required by federal law.

FTA is suited to fulfill, on a temporary basis, a much needed safety oversight role of WMATA. We have the knowledge, expertise and enforcement powers to do the job. Additionally, our current safety rulemaking framework provides us with the authority to take action that will protect the safety of transit riders and workers in our Nation's Capital and elsewhere in the country. In a short time, FTA has provided more thorough safety oversight over WMATA than it has ever received. We continue to closely monitor that its federal funds are tied to safety priorities and improving a state of good repair for WMATA facilities and equipment. We want this to be a model for the effective SSOA that Maryland, Virginia and the District of Columbia are creating.

We all want Metrorail safety to improve and we want change now. FTA will keep the pressure on WMATA to make necessary safety improvements. WMATA needs to ensure it is properly managing and resourcing its corrective safety actions and building internal safety capacity and culture.

Thank you for the opportunity to discuss FTA's direct and robust safety oversight of WMATA's rail transit system. I am glad to answer any questions you may have.

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Carolyn Flowers

Senior Advisor

Senior Advisor Carolyn Flowers assumed leadership and all decision-making duties of the Federal Transit Administration (FTA) on April 2, 2016. Ms. Flowers joined the FTA as Senior Advisor to the Administrator in January 2015.

Ms. Flowers leads a staff of more than 500 in the Washington, D.C. headquarters office and 10 regional offices throughout the United States, and implementing an annual budget of over \$10 billion. Ms. Flowers' decades-long career serving in public transit provides the FTA invaluable insight and guidance for delivering its programs, policies and initiatives.

Prior to joining FTA, Ms. Flowers served as Chief Executive Officer/Director of Public Transit for the Charlotte Area Transit System, where she was responsible for countywide bus and rail transit planning and management. She began her career in public transportation with the Los Angeles County Metropolitan Transportation Authority (LACMTA) in 1993 and for nineteen years served in many capacities in budget, administration and operations at LACMTA. Her last position at LACMTA was as the Chief Operations Officer with responsibility for managing bus operations and Freeway Service Patrol.

Ms. Flowers earned a bachelor's degree in history and political science and a master's degree in business administration from the University of California, Los Angeles (UCLA) School of Management. She has served on a number of professional boards, including co-chairing the American Public Transportation Association's (APTA) Reauthorization Task Force, and has received a number of awards for her commitment to advancing public transportation nationwide. She participated in a 2005 international study project for the National Association of Sciences, sponsored by the Eno Foundation for Transportation Studies, as well as the executive development program sponsored by the Eno Center for Transit Leadership.

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