

**EXAMINING THE SAFETY AND SERVICE OF D.C.
METRO**

JOINT HEARING
BEFORE THE
SUBCOMMITTEE ON
TRANSPORTATION AND PUBLIC ASSETS
AND THE
SUBCOMMITTEE ON
GOVERNMENT OPERATIONS
OF THE
COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
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EXAMINING THE SAFETY AND SERVICE OF D.C. METRO

Wednesday, April 13, 2016

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND PUBLIC
ASSETS, JOINT WITH THE SUBCOMMITTEE ON
GOVERNMENT OPERATIONS,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The subcommittee met, pursuant to call, at 2:28 p.m., in Room 2154, Rayburn House Office Building, Hon. John L. Mica [chairman of the Subcommittee on Transportation and Public Assets] presiding.

Present from Subcommittee on Transportation and Public Assets: Representatives Mica, Amash, Duckworth, and DeSaulnier.

Present from Subcommittee on Government Operations: Representatives Meadows, Walberg, Jordan, Buck, Carter, Connolly, Maloney, Norton, and Plaskett.

Also Present: Representatives Comstock, Hoyer, Delaney, and Beyer.

Mr. MICA. Good afternoon. I'd like to welcome everyone to the Committee on Government Oversight and Reform. And we have this afternoon a joint subcommittee hearing. The Subcommittee of Transportation and Public Assets, which I am pleased to chair, and we have our ranking member, Ms. Duckworth; and then we also have the Government Operations Subcommittee, which is chaired by Mr. Meadows, and Mr. Connolly is the ranking member.

So I would like to call the meeting to order. And, without objection, the chair is authorized to declare a recess at any time.

I would also like to announce the order of business. We'll first hear from the chairs and ranking members, and then we will go to questions. And first I will introduce the witnesses and swear them in. And we welcome them today. In just a few minutes we'll get to them. So that's the order of business for the joint subcommittee hearing today.

And I also would like to note the presence of our colleagues. We have Congresswoman Comstock of Virginia. We may expect—I'm not sure if he's going to be here, but we would certainly welcome Congressman Steny Hoyer of Maryland. Congressman—is it Beyer?—okay—of Virginia and Congressman Delaney of Maryland. I'm not sure if Congressman Delaney is here. But I'll ask unanimous consent that they also be allowed to participate. And, without objection, so ordered.

So while they are not members of the committee, we appreciate their participation. The order of business is we'll go through members of the subcommittee and our OGR committee and then recognize those individuals. I plan to yield some of my opening statement time to Ms. Comstock. And we'll proceed in that order.

So today I would like to begin by making some remarks, some opening statements, and I'm pleased again to welcome everyone. This is not a new kids on the block hearing. This is actually a continuum of hearings that we've held. I had the opportunity to chair the Transportation Committee and we looked at the problems with WMATA and Washington Metro during that tenure.

On the 12th of January, 2015, last year, we had a horrible incident, an accident in which an individual lost their life in the Metro system. I called a hearing February 13 of 2015, that was our first OGR hearing, to review what had taken place. We personally visited NTSB. We looked at the problem that was identified. We tried to find out what was going wrong at that point, what made that incident occur, and then seek remediation.

We did a second hearing, I might remind members, July 21, 2015. And I'm very concerned that after talking with Mr. Hart we'll hear from in a while from NTSB, that some of his recommendations, he told me, were passed on from the fatal incident in June. I'm not sure if they were taken care of.

We had the latest incident, we had a shutdown of the system for, what, 29 hours, March 16, last month. I gave enough time for folks to prepare for this hearing. I wanted to do something immediate. We do have some new leadership at WMATA, and I wanted to make certain that everyone had time to prepare for this hearing.

We have a Metro system in crisis in Washington, D.C., and we need to find out what has gone wrong, what steps have been taken to correct the problems. We need to look at the management restructuring and we need to look at the financial structuring that is currently in place.

There are few transit systems in the United States that receive the subsidization that Metro does in Washington. So we need to again hold people's feet accountable and see what's wrong, look at what's been done, and then look at solutions for the future. That's the purpose of this hearing. That's what we're going to do today.

I'd yield the balance my time to the gentlelady from Virginia, Mrs. Comstock.

Mrs. COMSTOCK. Thank you, Mr. Chairman. Thank you for yielding. And I'd also like to thank him for this hearing in allowing us in the Metropolitan Washington area to join. This is a vitally important issue to my district and to our entire region.

And I appreciate our new manager. And I'd like to emphasize so everyone in the audience does understand that Mr. Wiedefeld is the new general manager of Metro. And we appreciate his work with us. I know when he first came and met with all of the Washington area, my colleagues, we all emphasized the cultural change.

And I appreciate how much you are taking that to heart and really facing a lot of what you have called the hard truths of the system.

We were together at an event yesterday in Loudoun County and I want to say how much people did appreciate again your talking

about the many hard truths that we have on how we are going to have to deal with this on the long road ahead to regain that public trust given we've had a dropoff in Metro ridership because of the lack of reliability and the increased concerns for safety.

So I do appreciate the March report where you, yourself, have publicly called on Metro to accept these hard truths, and you noted that safety culture at Metro is not integrated with operations and is not well rooted at all levels.

I know yesterday when you spoke you talked about how you are already eliminating a lot of the silos, because what was happening with all the direct reports to you, when something went wrong everyone looked to somebody else. So you really did highlight some of those problems well and acknowledged that Metro is actually at this time doing less with more, to quote your statement. And in nearly 10 years there have been no significant reductions in workforce resulting in redundant positions among back office staff that will be abolished through attrition where possible.

I think it is important to note that you've identified sort of in the need to modernize this that the back office staff that we might not need now needs to be reallocated. We need to have management changes there or labor changes, as you noted, that we will probably need to change this. We can't have these redundant positions that are unneeded soaking up the resources that we need to put on the front line. And I particularly appreciate that you are putting more safety resources into all the stations as you're going through this process.

The organizational span of control we know is too wide, as you noted in the meeting we had yesterday, and it is not mission focused. So I appreciate particularly what you have been highlighting on the customer focus of Metro and the need to have a much more customer-focused workforce and to have that be certainly a top priority.

I was able to go up to the ROCC recently, the Rail Operations Control Center, and I know one of the biggest concerns that I'd had when I read articles like the Washingtonian back in December, which we have discussed, was the training process. And I noted in the recent audit that they also identified the training as a key problem area. So any way we can be helping you as you go through that process of how we're going to revitalize and change that training so that we have the best people available so we get the most value for the money and resources we're putting in here.

So, again, I think the chairman for allowing us to join you here today. I thank the general manager for his work, and particularly in recruiting the new safety officer that I understand you just announced later, I guess it was a little while after we met yesterday, New York City Transit's Patrick Lavin to now be our new chief safety officer. And, of course, never has there been a time when he is more needed.

So I appreciate the opportunity to be with my colleagues today and look forward to discussing this more.

Mr. MICA. I thank the gentlelady from Virginia.

I recognize our ranking member, Ms. Duckworth.

Ms. DUCKWORTH. Thank you, Mr. Chairman.

In the United States rail transit ranks among the safest modes of transportation. However, as our famed pilot “Sully” Sullenberger wisely warned of the commercial aviation industry, and I quote, “It is important not to define safety as the absence of accidents. When we’ve been through a very safe period it is easy to think it’s because we’re doing everything right. But it may be that simply we are doing some things right, but not everything, and we simply can’t relax.”

Unfortunately, a series of rail accidents in our Nation’s Capital reminds us of Sully’s statement and how it also applies to mass transit. Over the past 7 years, nine passengers and seven employees have been killed on the Washington Metrorail system and many more have been injured. Riders have lost confidence in Metro and rebuilding trust will require far more from WMATA than simply reminding passengers that driving is far more dangerous than riding.

Of course, Congress must also hold itself accountable for creating a weak Federal Transit Administration. Compared to FTA’s DOD counterpart, the Federal Railroad Administration, and especially the Federal Aviation Administration, FTA lacks the authority, resources, and experience necessary to make sure State safety oversight agencies effectively protect rail transit passengers and workers.

I’m concerned that the entire rail transit sector may be out of step with the positive safety trends experienced by other forms of transportation, such as by the global aviation industry. In aviation we’ve managed to cut the rate of crashes and fatalities in half between 2000 and 2012.

Moving forward, rail transit must learn from past experiences of other transportation industries. It’s worth remembering the observation from Ms. Deborah Hersman, a former chairman of the National Transportation Safety Board, who when describing aviation sector’s evolution to a more, quote, “proactive approach to safety,” grimly noted that in previous aviation eras, and I quote, “the lessons of accidents used to be written in blood where you had to have an accident and you had to kill people to change procedures or policy or training.” I fear that her morbid description of aviation’s past safety culture sounds all too familiar when examining the challenges currently facing rail transit.

Nearly a decade has passed since NTSB investigated the 2006 derailment of a Chicago Transit Authority train. NTSB’s work produced a comprehensive set of recommendations for CTA and FTA. According to the accident report, and I quote, “This accident offers many lessons to both CTA and to rail transit systems around the country that we have made a number of recommendations to address those issues.” For example, they recommended that FTA inform all rail transit agencies of the CTA derailment and, among other things, make sure that all rail transit systems have the capability to communicate with passengers during an emergency and the ability to remove smoke from tunnels, and this was 10 years ago.

NTSB also found that FTA oversight of the regional transportation authority was, quote, “inadequate and failed to prompt actions needed to correct track safety deficiencies.”

Despite NTSB's clear findings and recommendations produced in 2006, it became tragically clear on January 12 of 2015 that neither FTA nor WMATA implemented reforms to Metro's procedures, policies, or training to prevent similar incidents a whole decade later. Metro could not communicate with passengers during the emergency. Worst of all, Metro's inability to remove smoke from the tunnel had deadly consequences. My constituents wonder why we even spend taxpayer dollars on NTSB investigations if the lessons are never learned, let alone acted on, to prevent future accidents.

Moving forward, there seems to be bipartisan recognition that FTA was set up to fail, and I'm pleased that MAP-21 strengthened FTA's authority to enforce critical safety rules. And I thank the chairman for his leadership with MAP-21.

However, we cannot relax. We must examine what further enhancements must be made to FTA's statutory authorities and explore key issues, such as whether FRA would be a more effective safety regulator for Metro. Clearly, there are many lessons FTA can learn, and FRA and FAA can teach those lessons.

This committee should play an important role in helping reform spread across agencies in all levels of government. We must also never forget the bottom line. At the end of the day, the millions of Americans that rely on mass transit care very little about which Federal agency is overseeing which State entity. Passengers simply want peace of mind that their local mass transit system will transport them safely to work and back home to their families. I look forward to hearing from our witnesses about how we can achieve this goal.

I yield back, Mr. Chairman.

Mr. MICA. I thank the gentlelady.

Let me recognize the chair of the Government Operations Subcommittee, the gentleman from North Carolina, Mr. Meadows.

Mr. MEADOWS. Thank you, Mr. Chairman. Thank you for your leadership on requesting this hearing.

And thank each of you, many of you for coming back another time to address an issue that is important.

Obviously, the D.C. Metro system transports nearly 200 million riders annually. These are not just only the hard-working citizens and Federal employees of the District, but people from all across the country who come here to visit and look at and enjoy America's treasures and the monuments that are here.

The Washington Metro was once the gold standard of public transit, but in recent years it's become synonymous with several other words: poor service, delays, and rampant safety concerns. And in many ways this just adds to the unfortunate situation that WMATA riders find themselves today. This hearing focuses on the efforts that WMATA has sought to address some of the issues surrounding the safety and delays in general service and to work towards making sure that our D.C. Metro system will once again deserve the moniker that it is indeed the best transit system in the country.

The Metrorail system recently celebrated its 40th anniversary. And while any system that has been in service for that length of time is bound to experience its fair share of maintenance problems, the WMATA Metrorail system seems to be plagued by dangerous

and systemic problems. In the past few years WMATA has experienced a large number of significant accidents and passenger safety events. And certainly we can all remember not too long ago, in 2015, when one passenger was killed due to the electrical cable fire that sparked an arcing incident. That obviously is still under investigation and still being dealt with. It resulted in a large amount of smoke-filled rail cars.

I was surprised to find that that event was just not unique, it was unique in that we had a tragic loss of life. But in talking to some of my staff, I found that we've had smoke-filled cars and other potential problems even more between that event and the one that obviously has brought us here to this additional hearing today.

Following the July—I mean the 2015 incident, NTSB undertook an investigation and issued an urgent safety recommendation that WMATA needed to address the related electrical cables to prevent further fire hazards. Just last month an electrical cable at the McPherson Square Metro Station experienced the same type of arcing incident that we had previously identified. The fact is that this same type of fire hazard is continuing to result and a major fire-related incidence raises questions as to the effectiveness of WMATA's safety efforts and the agency's oversight of WMATA.

In response, WMATA and the general manager—the new general manager, as my colleague pointed out—closed the Metrorail system for 29 hours to conduct an emergency safety inspection. And this emphasis on safety certainly is a step in the right direction for WMATA and to get back on track the Nation's premier public transit system. It created unbelievable chaos within the city on that particular day. I think many people experienced unbelievable hours of traffic jams that they would not normally have experienced just because of that shutdown.

Safety does come first, but it also shows the importance of this rail system to this city and the way that we do work. And so it is a must that we have to address this.

Beyond the safety-related issues, WMATA seems to be besieged by miscommunication and backbiting sometimes between the operational controls represented by the general manager's office and the policy controls represented by the WMATA Board. This issue was particularly visible in the aftermath of this McPherson incident where there seemed to be a public disagreement between the Board and the general manager as it relates to the action necessary to get WMATA back in a state of good repair.

So I look forward to each one of your testimonies today, working with the witnesses to not only address the safety concerns that have really affected WMATA, but also to create a unified face for a system that we need to help restore the confidence and trust for those that use the system each and every day.

So I'd like to thank our witnesses for attending today's hearing, for taking to the time to work with this committee to ensure that when WMATA celebrates its 50th anniversary it can do so and that we can celebrate it as being the best transit system in America.

And with that, Mr. Chairman, I yield back.

Mr. MICA. I thank the gentleman.

Let me first now recognize the ranking member of the Government Operations Subcommittee, the gentleman from Virginia, Mr. Connolly.

Mr. CONNOLLY. If I can do a unanimous consent before my time starts, Mr. Chairman, I have a statement to be entered in the record, I ask unanimous consent, on behalf of our colleague, Chris Van Hollen of Maryland, who has been a longtime supporter—and sometime critic—of Metro and been a great partner.

Mr. MICA. Without objection, so ordered.

Mr. CONNOLLY. I thank the chair.

Mr. Chairman, I appreciate the opportunity to revisit the safety and service challenges faced by the Washington Metro system. I've spent 21 years of my life working on Metro-related issues, first as a member of the Fairfax County Board of Supervisors, then as chairman, and now as a Member of this body. No one is more disheartened than I with the current unacceptable state of affairs.

In the wake of January 2015 tragedy at L'Enfant Plaza, we held two hearings in which I said Metro was facing multiple crises, a crisis in leadership, a crisis in safety, a crisis in commuter and stakeholder confidence, and a crisis in funding.

Let me start with the most significant improvement, which is the November hiring of General Manager Paul Wiedefeld. His hiring was long overdue as Metro went 10 solid months without a permanent general manager. I think most observers agree he is proving to be the right leader at the right time to help get Metro back on the right track.

I rode the Orange Line with Mr. Wiedefeld through northern Virginia in January so he could hear firsthand from riders about their safety and reliability concerns. And because the gods were on our side that day, we encountered two cracked rails in the process, leading to many delays.

Mr. Wiedefeld recently issued a customer accountability report in which he lays out the hard truths about safety, reliability, and basic customer service, coupled with more than 50 actions he and the agency will begin to take to address those. Of course, that's in addition to the urgent safety recommendations made by the NTSB as part of its ongoing investigation into the L'Enfant Plaza tragedy.

In addition, the FTA, which conducted its own safety management inspection, now has assumed safety oversight for Metro, has 91 of its own corrective actions.

I know the new general manager agrees that safety ought to be priority number one. Since our last hearing, two additional incidents have rattled riders and further eroded confidence. First, a train derailed in the early morning hours of August 6 on the Orange, Blue, Silver Lines between Federal Triangle and Smithsonian. The train, which was not carrying passengers yet, derailed due to a defect in the rail line, a wide gap, previously detected, but misreported and unfixed.

Then Metro suffered a gut punch on March 14 with another electrical arcing incident, this time on the Orange, Blue, Silver Lines at McPherson Square. Thankfully, the incident also occurred before the system opened, but was a disturbing safety shortfall that should have been identified and fixed immediately following the tragedy at L'Enfant Plaza.

It would seem Mr. Wiedefeld shared that assessment, prompting him to take the extraordinary and unprecedented step of closing the entire Metro system for 24 hours in order to allow for emergency inspection of all such cables. Though it created a significant challenge for the region's commuters and the Federal Government, which encouraged employees to use unscheduled leave and telework for the day, I support the general manager's decision on that one-day closure, although I caution against prolonged closures in the future. It served as an overdue shot across the bow to the entire workforce at Metro that a culture of mediocrity is no longer acceptable.

What has been particularly frustrating with each of the safety investigations is the revelation that Metro does, in fact, appear to have good policies and procedures in place, they are just not followed, they are not implemented, something I know Mr. Wiedefeld aims to rectify.

In addition, shuttering the system serves as a welcome message to riders, if you can call it that, welcome that is, that somebody is finally taking their safety and reliability concerns seriously and demanding accountability within the system.

As part of his internal assessment of Metro, I have encouraged Mr. Wiedefeld to make significant personnel changes, and I'm pleased by yesterday's announcement about the hiring of a new chief safety officer. Further, those responsible for allowing these issues to languish should step down or be removed.

Given all of this, it should be no surprise that Metro ridership has declined by 6 percent and 12 percent on weekends. In response, Metro hired a consultant to conduct a top-to-bottom review of its operation. The McKinsey & Company report offers a blueprint for both strategic short-term fixes that could be applied immediately along with more long-term recommendations.

My time is running out, Mr. Chairman, in this opening statement, but I know we will discuss financing as part of this hearing, and I will hold off on that part of my statement until we get to that round. Thank you.

Mr. MICA. I thank the gentleman.

And members will have 5 legislative day for anyone who wishes to submit a written statement. In agreement with the minority, that is so ordered.

Mr. MICA. We are now pleased to turn to our panel of witnesses. And again I want to welcome you.

Let me first introduce the Honorable Jack Evans, chairman of the Board of Washington Metro Transit Authority.

Mr. Evans.

We have Mr. Paul Wiedefeld. He is the new general manager of the Washington Metropolitan Area Transit Authority.

Welcome, sir.

We've got the Honorable Chris Hart. He's chairman of NTSB, National Transportation Safety Board.

And we have Ms. Carolyn Flowers, senior advisor at the Federal Transit Administration. And I guess you're new to that position, but we also have accompanying you Mr. Matthew—is it Welbes? And he is executive director of Federal Transit Administration.

And we may call on you because of your expertise.

So I'd like to welcome all of our witnesses.

The order of business is such that we allow you about 5 minutes. Some of you have been here before, some of you haven't. We'd like you to summarize your testimony, hopefully in that time. If you'd like additional information or statements or data to be submitted, just ask through the chair or a member and we'll be glad to do that.

Now, this is an investigations and oversight committee of Congress, so we do swear in all of our witnesses. So I'd like you to stand if you would, please. Raise your right hand.

Do you solemnly swear or affirm that the testimony you are about to give before this committee of Congress is the whole truth and nothing but the truth?

Let the record reflect that all of the witnesses answered in the affirmative.

Again, I want to welcome our chair of WMATA, Mr. Evans, and we'll recognize you first.

WITNESS STATEMENTS

STATEMENT OF JACK EVANS

Mr. EVANS. Thank you. Well, good afternoon. My name is Jack Evans, and I'm chairman of the Board of the Washington Metropolitan Area Transit Authority, better known as Metro. And I also for the last 25 years have represented Ward 2 on the Council of the District of Columbia. And I want to thank you, and appreciate the opportunity to testify before you today on what is the most critical issue facing our region.

And, first, Chairman Mica, I want to acknowledge your enormous commitment and leadership in the transportation field throughout this country.

And, Chairman Meadows, on behalf of the residents of the District of Columbia, I want to thank you for coming to the State of the Union speech by our Mayor, State of the District speech, And we appreciate your support of the District.

And our Ranking Member Duckworth, as a graduate of the Elliott School of International Affairs at The George Washington University, we know you're very familiar with the District of Columbia.

And certainly last, Ranking Member Connolly, I want to thank you for your constant support and advocacy for Metro.

I want to thank all of you. And certainly I want to recognize and thank my Congresswoman, Eleanor Holmes Norton, who has done a fabulous job representing our region here.

I want to give you a little background so you know where I'm coming from here. I moved to Washington, D.C., as a summer intern in 1976. I had an opportunity to ride Metro when it first opened. And you've heard my comment before, it was a shining new Metro system reminding us all of "The Jetsons," remember the TV show, George Jetson, and there it was.

I moved here in 1978 permanently, rode Metro throughout the 1980s and 1990s. In 1993 joined the Board of Metro and served on the Board from 1993 to 1999, twice as chair of the Board.

When I left Metro in 1999, the end of 1999, it was a shining example of regional cooperation and, as has been mentioned, was the

envy of transit systems throughout the country. I rejoined the Board in January of last year and I was outraged—and I want you to know this—at what I had found. Fifteen years after I left the system the finances were in chaos and the operations were just behind it.

What happened? How did we get here?

First, we have to realize something, I want everybody to recognize this. Metro is all of us. It's not just Paul and I. Metro is everyone in this room. And we have to take responsibility for this system and get it fixed. Because we talked about who rides Metro, with 200 million people ride Metro a year, District, Virginia, Maryland residents. Twenty-two million people visit this region every year. And 35 percent of our riders are Federal workers. Fifty percent of the Federal workforce rides Metro. That's all of you, that's all of us, and it's an important thing to remember for later in my comments.

So what are we dealing here? We're dealing with operation, and Paul is going to talk about that. He's going to talk about how we got to where we are and what we're going to do to fix it. But I can say one thing. We have years of neglected maintenance, and the idea of fixing this by working 3 hours at night and on the weekends is not working. We need a better plan.

Now, the finances. Even if this system were operating like a clock, it will never survive under the financial structure that we have in place right now. Quickly, we get our money from two areas, \$1.8 billion budget, \$90 million from the farebox, \$900 million from the region. Okay?

Right now what I'm dealing with, I have a \$2.5 billion—let me repeat that—\$2.5 billion unfunded pension liability problem. Next year's budget, starting out of the box we're \$100 million short because we balanced this year's budget with \$100 million of one-time money. Add on to that increasing costs, we're \$150 million dollars short right out of the box.

And I have an \$18 billion deferred capital maintenance problem. This is the maintenance that Paul is going to talk about that needs to be done. It is the new cars that we have to buy. And it's systematic problems like the Roslyn bottleneck that prevents us from getting trains across the river and into the District. All has to be fixed.

So what are our solutions here? Number one, we need the Federal contribution on the operating side. We need \$300 million from the Federal Government. How do I get that number? \$900 million divided by 3, \$300 million, each jurisdiction is giving that. The Federal Government needs to do that as well. Remember, you paid for two-thirds of the system. You put \$6.9 billion into the system. You have to help us, otherwise we can't survive.

Secondly, we need a regional funding source—and bear with me as I run out of time—we need a regional funding source. We've been talking about it since 1993 when I first joined the Board. This committee had a hearing, here it is, 2005. You spent your whole time talking about a regional funding source and nothing ever happened. I need a billion dollars a year from the region. And if the region won't do it, let me just float this idea with you all, the Ten-

nessee Valley Authority, a Federal agency set up by all of you in order to collect money.

So let me conclude with this. I've been the finance chair in the District of Columbia for 17 years, okay? We were here in 1995 with a city that was bankrupt. Without Federal assistance—and Eleanor Holmes Norton was the leader on this, and you remember this—without Federal assistance, we would not have made it. The Federal Government assumed a \$10 billion unfunded pension liability that the District of Columbia had and paid for our prisons and our judicial system, giving us the breathing room we needed as a city to survive and become what I would say is one of the most dynamic cities in America today who has the best financial picture.

So that's what I'm asking you for today. We are in this together. We need your help. So thank you for the opportunity to testify.

[Prepared statement of Mr. Evans follows:]



Testimony of
The Honorable Jack Evans
Chairman of the Board
Washington Metropolitan Area Transit Authority
Before a joint hearing of the Subcommittee on Transportation and Public Assets and the
Subcommittee on Government Operations under the Committee on Oversight and
Government Reform
U.S. House of Representatives
Wednesday, April 13, 2016

Good Afternoon, I am Jack Evans, Chairman of the Board of the Washington Metropolitan Area Transit Authority. I also represent Ward 2 on the District of Columbia City Council. Thank you for the opportunity to appear before the Subcommittees today.

In the summer of 1976, I was an intern in the Judge Advocate General's office at the Pentagon in Washington, DC and rode on the brand new "DC Metro" system. For a kid of my generation, it was something straight out of *The Jetsons*. The system was new, shiny, and a futuristic look as public transportation. Today, this same system feels more like *The Flintstones* than a grand vision of the future.

Many years after that first ride on the Metro, I was elected to the DC Council in 1991. As part of my role on the DC Council, I served on the Board of Directors of the Washington Metropolitan Area Transit Authority (WMATA) from 1993-1999, including two terms as Chair. When I left the Board in 1999, Metro was the shining example of regional cooperation. We had undertaken the "fast-track" building program to work on multiple lines at once and complete the original 101-mile system. Building the Metrorail system was a partnership between D.C., Maryland, Virginia, and the federal government, with \$6.4 billion of the \$9.4 billion in total construction costs coming from the federal government, and the rest split among the state, local, and District governments.

When I rejoined the Board last January, I was surprised by what I found. The finances and operations had deteriorated. The day before I was sworn in to the Board, the District's CFO Jeff DeWitt alerted me to the terrible condition of Metro's finances. At that point, our FY14 audit was already 4 months late, on its way to being 9 months late; we had more than \$150 million in FTA grants outstanding for over 2 years because Metro hadn't properly signed timesheets; we were heavily reliant on short-term debt financing and our lines of credit were quickly expiring.

On the operations side, I rejoined the Board on Thursday January 8, 2015. On that Monday, January 12th, we experienced the tragic smoke incident at the L'Enfant Station that resulted in the death of Carol Glover and injuries to many others. After that accident, it became clear that the safety and improved operations of the system that had been the primary focus of the past 5 years of capital improvements were much worse than when I left the Board in 1999.

So where are we today? Our financial house is in better shape. Our FY14 audit was finished, and our FY15 audit was undertaken rapidly after the '14 audit was finished, albeit, still 3 months late. We finally received those long delayed FTA grants and have been able to reduce our dependency on short-term financing. The Metro CFO and his team are working with the FTA to get off of restricted drawdown and get back to the regular electronic system of grant submission.

On the operations side, General Manager Paul Wiedefeld is undertaking a complete review and developing a plan to fix Metro. As he said, that plan to address our deferred maintenance is still in development, but the need is more certain. Metro needs approximately \$25 billion over the next 10 years to run the system, address the critical safety issues identified by the National Transportation Safety Board and the Federal Transit Administration, and catch up on deferred maintenance. The agency also faces a \$2.5 billion unfunded pension liability that it has no plan or ability to address.

I want to make very clear. I don't own Metro. Paul doesn't own Metro. The system, its problems, the daily – and long term – inconveniences, and potential solutions don't belong to any single person or government agency. Paul and the Board of Directors are in place to assess the multitude of problems and present possible solutions to the region, but remember, the entire region – the governments, businesses, and citizens of the District, Maryland, and Virginia, as well as the Federal Government – own Metro.

I've put the region on notice, that we need to come together to create a dedicated funding source for Metro that produces approximately \$1 billion per year. Whether it's a sales tax, property tax near Metro stations, gas tax, or a mix, a dedicated funding source is something that should have been set up before a single piece of track was laid. A 2005 report made such a call for dedicated funding, and besides a DC bill that would have dedicated 0.5% of our sales tax to Metro, no action was taken. That's a failure of the region and something we need to remedy as soon as possible.

More relevant to today's hearing, the federal government, an equal partner in governing the system with 4 board members, should contribute \$300 million per year to the operating budget just like D.C., Maryland, and Virginia. They paid two-thirds of the cost to build the system and benefit more than most from an efficient transit system for their workers in the region.

These additional funds are necessary to operate the system safely. However, money alone doesn't fix a problem. That's why I'm encouraged that we have Paul on board. He's the kind of leader that will give us an honest assessment of the problems and roll up his sleeves to lead the recovery.

I've chaired of the District's Finance Committee since 1999 and worked tirelessly to ensure the resurgence of Washington, D.C. Much like the partnership I built with Mayor Williams to rebuild the District's financial base, we're building a team at Metro and are getting our house in order.

For our next fiscal year, 2018, WMATA will be facing an approximately \$150 million operating budget shortfall. Our 2017 budget, which we passed last month and will begin on July 1, 2016, was balanced with \$100 million of one time money. Additionally, our main labor contract is expiring this summer. The WMATA compact requires all labor contracts that are not agreed to by management and the union to go to binding arbitration which could result in an increase of at least \$50 million in our labor costs for fiscal year 2018.

Given Metro's recent performance and continued loss of ridership, I do not support raising fares or cutting service. So this \$150 million must come from the jurisdictions.

Metro has essentially two sources of operating funds: \$900 million from the state and local governments and \$900 million from the fare box.

Metro's problems are similar to those faced by transit agencies, highway networks, and other infrastructure system across the country. After winning World War II, my parent's generation built our nation's infrastructure. Our generation took that infrastructure and has allowed it to go to wreck and ruin. It's not a legacy I want to leave behind. We should leave the system better than we found it.

For years, we've failed to act and it's left us with unpopular decisions and difficult options. However, if we fail to act now, and fail to adopt a regional funding source for Metro that produces \$1 billion per year and fail to secure a federal contribution on the operating side of \$300 million per year, Metro will remain a system that's maybe safe, somewhat reliable, and mediocre instead of the world class system that the National Capital region deserves.

Mr. MICA. I thank the gentleman.

Let me now recognize the general manager of WMATA, Mr. Wiedefeld.

Welcome, and you're recognized.

STATEMENT OF PAUL WIEDEFELD

Mr. WIEDEFELD. Good afternoon, Mr. Chairman. Thank you for having me today. I'll be very brief.

But since I've come on board 4 months ago a big part of my time has been spent reaching out to the stakeholders, the customers, the employees, particularly the frontline employees, elected officials, and business community, and I've gotten a firsthand experience from using the system, obviously from listening to them, and then basically walking the tunnels, walking the bus garages, and maintenance facilities. I've learned a lot, I've learned a number of the issues that we have, and I've learned about a number of opportunities we've had.

Unfortunately, during this time I've also had to make some very difficult decisions, the first one dealing with the blizzard that we had that hit the region and second one is the cable fire at McPherson Square. Both of those decisions were driven by my commitment to safety for our customers and our employees, and that's why I made those decisions.

In the near term my priorities remain to be safety, service reliability, and getting our fiscal house in order, as the chairman just mentioned. Last month, as was also mentioned, I put out a report, a customer accountability report, which basically outlines a number of actions, just based on my short time here, of things that I want to do and things I've heard and what we learned from McKinsey and other sources.

The purpose of that report is to be transparent, but more important is to be accountable to the public and for the managers to be accountable, and it's basically setting that bar, and that's exactly why that was done, and it will continue to grow.

And although the actions I've taken I think reflected a different management approach and the start of a change of culture here, there is still quite a long way to go, and this is where I need the stakeholders in this region to basically support me to get there.

I think we need to step back and look at what we've been doing in terms of particularly the maintenance of the system. We've gone from crisis to crisis. We tend to deal with things one off and that just cannot go on. We have created a program to try to do the improvements which basically were not getting done. It is inefficient. We are impacting our customers day to day, on weekends, and we're suffering from that.

So I will be coming out in the very near future with a new program to get at these issues and get the system up to the state it should be, and then we'll continue to maintain it from there. The solutions won't be easy, and so I'm not going to sugarcoat it, that is for sure, but I think there are things that we have to do to get to where we want to be.

Let me close by saying last month we celebrated the 40th anniversary of the system and it is something to celebrate for sure. Over the last 40 years Metro has played a central role in trans-

forming this region into one of the most dynamic regions in the world for sure. It's shaped the land use, it's become the backbone of our economic development, it's played a central role in meeting the mobility needs of residents and visitors alike, moving 1.2 million passengers a day, and it is supportive of our metagoals, particularly in the air quality arena.

In short, Metro has been and will remain the critical economic growth and quality of life in this region, will support it. But it is therefore time for us to be realistic to address the challenges we are facing as a region to make the Metro system great again, challenges that, in my opinion, must be met given Metro's vital importance to the region today and tomorrow.

Thank you for your attention. I do want to take a moment, though, to thank our regional congressional delegation for their support. I also want to thank the chairman, Chairman Mica, Congressman Connolly, and Congresswoman Comstock, for the help in supporting the efforts to reach the agreement on the cellular phone installation. So I really do appreciate that.

I'll be glad to answer your questions later.

[Prepared statement of Mr. Wiedefeld follows:]



Testimony of Paul J. Wiedefeld, General Manager and Chief Executive Officer of the
Washington Metropolitan Area Transit Authority

Before a joint hearing of the Subcommittee on Transportation and Public Assets and the
Subcommittee on Government Operations under the Committee on Oversight and
Government Reform
U.S. House of Representatives
Wednesday, April 13, 2016

Good afternoon, Chairman Mica, Chairman Meadows, Ranking Member Duckworth, Ranking Member Connolly and Members of the Subcommittees. Thank you for the opportunity to testify today. I am Paul Wiedefeld, General Manager and Chief Executive Officer of the Washington Metropolitan Area Transit Authority, known as Metro.

I joined Metro four short months ago with more than 35 years of public and private sector experience in the transportation field. Prior to joining Metro, I ran Baltimore/Washington International Airport twice, from 2002 to 2005 and again from 2009 to 2015, and in between, I served as head of the Maryland Transit Administration.

On March 6th of this year, after 90 days on the job, I released my initial action plan to improve Metro and begin to restore pride in the National Capital Region's public transit system.

Through conversations with riders, advocates, employees, business and community leaders, elected officials, funding partners, regulators, railroad experts, and management consultants, the message was clear – make Metro safer and more secure,

improve service reliability by getting the trains and buses to run on time, and manage effectively and efficiently as stewards of customer fares and public assets.

As indicated by my decision last month to shut down the Metrorail system for emergency safety inspections, Metro and the region have some hard truths to confront.

First, the safety culture at Metro is not integrated with operations, nor well-rooted at all levels. Understandably, high-profile incidents have shaken the public's confidence in the operational safety of the rail system and corrective actions are needed.

Second, while riders tell me they want to feel safe, the top issue they point to again and again is service reliability. Last year, rail on-time performance fell from 92 percent to 85 percent, and the experience for many customers was even worse as rail car mechanical failures have doubled the number of late trains.

And third, there's more work to be done to improve Metro's financial standing. While I can say confidently that Metro's financial position today is stable – with expenses better managed and positive cash flow – our financial systems as a whole are substandard compared to other transit authorities and require continued efforts to modernize.

The action plan I released last month is focused on confronting these three areas of improvement with realistic reform goals. Under my plan, Metro is undertaking a portfolio of initiatives that, in the near term, deliver fundamental improvements to regain trust from riders and local governments. In the mid-term, the actions will build on the stronger foundation to achieve best in class status in the United States.

I have outlined 47 specific actions to improve safety, reliability, financial security, and restore the public trust – and we'll continue to add to the list whenever necessary. As part of Metro's commitment to transparency, members of the public can view Metro's progress towards completing these actions through a new Customer Accountability

Report. The report can be found on our website and will be updated regularly so the public can track our progress.

These priorities are the first in a portfolio of initiatives that are being undertaken to deliver the basics of better service. Actions will be taken in every department as part of Metro's business plan to make these initiatives successful and to ensure accountability. Some initiatives will be experimental and will only be pursued if they prove successful. Others will be fine-tuned as we learn. I look forward to working with Members of this Committee and the public as we work to implement this plan.

Now I would like to briefly discuss the recent fire incident at McPherson Square and the subsequent one-day shutdown of the Metrorail system.

A fire at McPherson Square on March 14th presented disturbing similarities to the L'Enfant Plaza incident of January 2015, prompting my decision to shut down the Metrorail system for emergency safety inspections. Beginning at midnight on Wednesday March 16th through opening on Thursday morning, March 17th, WMATA and contractor personnel inspected, documented and reviewed all underground jumper cables; repairing 27 defects and documenting other non-emergency repairs required. A total of 1,928 cables were inspected, which includes jumper cables, track feeder cables, transition and expansion cables. Twenty-seven defects, including three of high priority, were corrected immediately.

Starting April 1st, an expert team of 12 inspectors are now conducting regular inspections of the Metrorail system. In addition, I look forward to reviewing the recommendations WMATA received from a consulting firm to implement new preventive maintenance and inspection schedules and procedures.

Metro is working closely with the National Transportation Safety Board (NTSB) and the Federal Transit Administration (FTA) and, under FTA procedures, WMATA will provide the investigation report to the FTA.

I would like to take a moment to describe our process going forward.

First, we are going back and doing a thorough review of what actions were or were not taken following the fire that occurred at L'Enfant Plaza in January 2015. Basically I want to know how this could have happened again just 14 months later.

Second, we are conducting a complete review of the March 14th McPherson event. Specifically, I want to know the cause and did we apply the lessons learned from the L'Enfant Plaza event to what occurred at McPherson Square, particularly in terms of how the event was handled by the Rail Operations Control Center and the emergency responders.

Finally, the third area of focus is what needs to change in terms of our inspection and maintenance of power systems to prevent an occurrence like this from happening again. This is a place where I believe we need to step back and confront more hard truths. As was done several years ago when the region recognized that internal fiscal management issues at Metro were systemic and needed to be addressed in that manner. Similarly, I have found systemic issues with regard to track, power, and car maintenance, as well as stations, which must be defined and addressed.

Our current approach to dealing with these issues, lurching from crisis to crisis, is not working and we need a plan going forward to come at these issues more holistically. We are working to prepare that plan and will present it to you and the public in the next four to six weeks.

The solutions won't be easy, but they are necessary to return the system to where we all want it to be. Work will take time and will impact customers and stakeholders – but I have committed to being transparent and giving customers and stakeholders notice of any changes.

Meanwhile, we are taking any immediate steps necessary to provide safe and reliable rail service.

As you know, the NTSB will soon provide a final report regarding the L'Enfant Plaza incident and we stand ready to act on their recommendations. Metro will work closely with the NTSB and the FTA and I am committed to being completely transparent with the public in terms of the findings, our plan to respond to the findings, and how well we are doing in terms of meeting our goals.

Since the tragic bombings in Brussels, we have been working very closely with the FBI's Joint Terrorism Task Force and the Transportation Security Administration to share intelligence. The Metro Transit Police Department has increased police presence throughout the system with plain clothes and uniformed officers, and our 27 K-9 units have been deployed throughout the system. I would like to thank the police departments of our local jurisdictions that have stepped up their patrols in stations located in their jurisdictions.

Like the majority of mass transit systems in the United States, Metrorail is an "open" system, which creates unique challenges and requires security strategies that are complex and multi-layered. The federal government provides significant funding for these efforts – Metro has invested nearly \$172 million of federal Homeland Security funding into the system since September 11, 2001. These resources have helped us install thousands of new cameras, and supported our anti-terrorism team, bomb squad and K-9 units.

I will close by thanking Congress for providing Passenger Rail Investment and Improvement Act (PRIAA) and federal formula funding, which WMATA has invested in a multi-year capital program that is making long-deferred improvements to the system. These safety and infrastructure improvements range from upgrades to our tracks, structures and signal systems, to the design of state-of-the-art railcars that exceed the latest safety standards. We have now received over 100 of our new 7000-series

railcars, with 12 new cars delivered in both February and March, and we are working to accelerate that delivery schedule moving forward. Already, these cars are providing improved safety and comfort to commuters and visitors to the National Capital Region.

Thank you and I look forward to answering your questions.

Mr. MICA. Thank you. And we'll hold questions until we've heard from all the witnesses.

Mr. Hart is the chairman of the NTSB.

Welcome back, and you're recognized, sir.

STATEMENT OF CHRISTOPHER HART

Mr. HART. Thank you. Good afternoon, Chairman Mica, Chairman Meadows, Ranking Member Duckworth, and Ranking Member Connolly, members of the subcommittees, and others who are present here today. Thank you for inviting me today to testify on behalf of the NTSB.

The NTSB has completed its investigation into the January 12, 2015, electrical arcing and smoke incident near WMATA's L'Enfant Plaza Station that has been referred to several times today. The board is expected to approve the final report at its public meeting on May 3. As I reported to you last year, our investigation revealed that some electrical connections associated with power to the third rail were improperly constructed and installed without sealing sleeves. The absence of sealing sleeves can create the potential for electrical short-circuiting, which results in fire and smoke events in the system.

Nearly a month after the L'Enfant Plaza accident we examined electrical components from a smoky vent in the tunnel near Courthouse Station and found that those cable connections were also missing sealing sleeves.

Most recently, we were informed by WMATA last month of an arcing event at the McPherson Square Station and we were invited to view some of the damaged electrical components. We observed that the damage to the traction power electrical components were similar to that of the L'Enfant Plaza Station accident. One cable connector assembly and portions of the cables had been vaporized by the intense heat, as was a portion of the third rail cover board similar to the L'Enfant Plaza Station accident.

In June 2015, we recommended that WMATA inspect the cable connector assemblies and ensure that they are constructed and installed in accordance with WMATA's specifications, which includes sealing sleeves. It is clear that the cable connector assemblies at the McPherson Square Station had not been modified as a result of our June 2015 recommendations.

What is unclear is whether these connectors had been inspected, and if so, how that inspection was conducted and recorded. We are anxiously awaiting WMATA's report on its progress in implementing this recommendation.

Since 1982, the NTSB has investigated 13 accidents involving WMATA. More than half of those investigations have occurred since 2006. Our L'Enfant Plaza investigation has illustrated once again that rail transit accidents continue to cause injuries and deaths and that more effective oversight of rail transit is necessary. That is why we included improved rail transit safety oversight in our 2016 most wanted list of transportation safety improvements.

Inadequate transit safety oversight can result in many types of safety hazards that are allowed to develop and persist and as such constitute systemic hazards. The physical hazard that led to the L'Enfant Plaza Station accident is present systemwide. That is why

the NTSB issued urgent safety recommendations to the Secretary of Transportation in September 2015 urging that DOT seek authority from Congress to designate WMATA as a commuter authority so that the Federal Railroad Administration can exercise direct safety oversight.

The Secretary's response to our recommendation acknowledged that the Tri-State Oversight Committee, or TOC, lacked sufficient resources, technical capacity, and enforcement authority to provide the level of oversight needed to ensure safety at WMATA. However, he disagreed with our recommendation to transfer safety oversight of WMATA to the FRA and instead determined that the FTA, the Federal Transit Administration, would begin increased oversight and would directly enforce and investigate the safety oversight of WMATA.

While we can all agree that the current oversight of WMATA by the TOC is insufficient, we are concerned that the FTA's safety oversight for this rail transit property is not equivalent to that provided for other similar properties or heavy commuter rail. FTA has very limited ability to oversee WMATA effectively.

Our concerns are substantiated by the fact that the FTA has no prior experience in direct safety oversight or as a State safety oversight agency, has limited staff to carry out the function, and does not have the authority to levy civil or individual penalties in response to safety deficiencies.

Every day millions of people use rail transit to go to or from work, home, or other destinations. In the case of WMATA Metro-rail, ridership is critical to the effective operation of all branches of the Federal Government, as evidenced by the recent unprecedented shutdown of the system for 1 day. That is why it is so important for WMATA and rail transit systems nationwide to be subject to competent oversight bodies that have standards and rules along with the power to enforce those rules. Although each system has unique equipment, operating environments, and challenges, all need strong safety oversight to continue safe operations.

Thank you for providing the opportunity to testify before you today. I look forward to responding to your questions.

[Prepared statement of Mr. Hart follows:]



NATIONAL TRANSPORTATION SAFETY BOARD

An independent Federal agency

**Testimony of the Honorable Christopher A. Hart
Chairman
National Transportation Safety Board
Before the
Subcommittee on Transportation and Public Assets and
Subcommittee on Government Operations
Committee on Oversight and Government Reform
United States House of Representatives
on
Examining the Safety and Service of D.C. Metro
Washington, DC
April 13, 2016**

Good afternoon Chairman Mica, Chairman Meadows, Ranking Member Duckworth, Ranking Member Connolly, and the Members of the Subcommittees. Thank you for inviting the National Transportation Safety Board (NTSB) to testify before you today.

The NTSB is an independent federal agency charged by Congress with investigating every civil aviation accident and significant incidents in the United States and significant accidents and incidents in other modes of transportation—rail, highway, marine and pipeline. The NTSB determines the probable cause of accidents and other transportation events and issues safety recommendations aimed at preventing future accidents. In addition, the NTSB carries out special studies concerning transportation safety and coordinates the resources of the federal government and other organizations assisting victims and their family members impacted by major transportation disasters.

Since its inception, the NTSB has investigated more than 400 railroad accidents, of which 62 were rapid transit accidents. On call 24 hours a day, 365 days a year, NTSB investigators travel throughout the country and internationally to investigate significant accidents and develop factual records and safety recommendations with one aim—to ensure that such accidents never happen again.

Investigations of Prior WMATA Metrorail Accidents and Incidents

Since 1982, the NTSB has investigated 13 accidents involving the Washington Metropolitan Area Transit Authority (WMATA). Most recently, the NTSB investigated the January 12, 2015, accident in which WMATA train 302 stopped after encountering heavy smoke while traveling southbound in a tunnel between the L'Enfant Plaza Station and the Potomac River Bridge in Washington, DC. About 380 passengers were aboard the six-car passenger train at the time of the accident. Some passengers self-evacuated from train 302, while emergency responders assisted others. The smoke originated from an electrical arcing event near the third rail about 1,900 feet south of the L'Enfant Plaza Station. Smoke filled the L'Enfant Plaza Station, which was evacuated. The train was stopped at 3:15 p.m. and all passengers were evacuated to safety by 4:27 p.m. As a result of the accident, 91 people were injured—including passengers, emergency responders, and WMATA employees—and one passenger died.

During the L'Enfant Plaza Station accident investigation, NTSB investigators found that some electrical connections associated with the power to the third rail were improperly constructed and installed without “sealing sleeves.” The absence of sealing sleeves can allow moisture and contaminants to enter the components and come into contact with high-voltage conductors. Such conditions create the potential for electrical short-circuiting, which result in fire and smoke events in the WMATA Metrorail system. On February 11, 2015, less than a month after the L'Enfant Plaza Station accident, the NTSB examined electrical components from a smoke event in the tunnel near

the Court House Station in Arlington, Virginia, where NTSB investigators found that those cable connectors were also missing sealing sleeves.

Most recently, on March 14, 2016, WMATA informed the NTSB of an arcing event early that morning at the McPherson Square Station in downtown Washington, D.C. The NTSB was invited to view some of the damaged electrical components. NTSB staff observed surveillance video of the McPherson Square Station platform, photographs of the incident location, and components that had been removed from the incident location. We observed that the damage to the third rail electrical components was similar to that of the L'Enfant Plaza Station accident. One cable connector assembly and portions of the cables, as well as a portion of the third rail cover board, had been vaporized. Surveillance video showing smoke filling the McPherson Square Station was also similar to what occurred on the L'Enfant Plaza Station platform. However, it is not clear what caused the arcing event at the McPherson Square Station.

To gather additional factual information in support of the NTSB's L'Enfant Plaza Station accident investigation, we convened a two-day investigative hearing in June 2015. The hearing examined four broad issue areas: the state of WMATA's infrastructure, emergency response efforts, WMATA's organizational culture, and the Federal Transit Administration's (FTA) and the Tri-state Oversight Committee's (TOC) efforts to address public transportation safety. Witnesses from various parties involved provided important first-hand insight on what happened and addressed larger questions raised by the accident. Additionally, the NTSB brought in representatives from Montgomery County Fire and Rescue Services, Metro-North Railroad, and the United Kingdom's Office of Rail Regulation to share their relevant experience in preventing and responding to accidents. The final report for the L'Enfant Plaza Station accident will be considered at the NTSB's May 3, 2016, Board Meeting.

In the 35 years prior to the L'Enfant Plaza Station accident, the NTSB investigated 12 accidents on the WMATA's Metrorail system; more than half of those occurred between 2006-2014. In addition, since 1970, the NTSB has issued 101 safety recommendations to WMATA.

The deadliest accident occurred on June 22, 2009, on aboveground track on the Metrorail Red Line near the Fort Totten Station in Washington, D.C. The lead car of train 112 struck the rear car of train 214, causing the rear car of train 214 to telescope into the lead car of train 112. This resulted in a loss of occupant survival space in the lead car of about 63 feet (about 84 percent of its total length). Nine people aboard train 112, including the train operator, were killed. Emergency response agencies reported transporting 52 people to local hospitals.¹ The NTSB determined that the ineffective safety oversight by the WMATA Board of Directors, the TOC's ineffective oversight

¹ National Transportation Safety Board *Collision of Two Washington Metropolitan Area Transit Authority Metrorail Trains Near Fort Totten Station, Washington, D.C. on June 22, 2009*, RAR-10-02 (Washington, DC: National Transportation Safety Board, 2010).

and lack of safety oversight authority, and the FTA's lack of statutory authority to provide federal safety oversight were contributing factors in the accident. As a result of this investigation, the NTSB issued 16 safety recommendations to the WMATA.²

Other significant WMATA Metrorail accidents investigated by the NTSB include the following:

- **November 29, 2009:** Rear-end collision of two Metrorail trains at the West Falls Church, VA, rail yard, resulting in injuries to three Metrorail employees and an estimated \$9 million in damage to train equipment.³
- **January 7, 2007:** Derailment of a Metrorail train near the Mt. Vernon Square Station, Washington, DC, resulting in 23 passengers being transported to hospitals and an estimated \$3.8 million in property damages.⁴
- **November 3, 2004:** Collision of two Metrorail trains at the Woodley Park Zoo-Adams Morgan Station, Washington, DC, resulting in about 20 persons being transported to hospitals for treatment and an estimated \$3.5 million in property damage.⁵
- **January 13, 1982:** Derailment of a Metrorail train at Smithsonian Interlocking, Washington, DC, resulting in three fatalities, 25 injured people, and an estimated \$1.3 million in property damage.⁶

While some progress has been made on the safety recommendations stemming from the Fort Totten and other investigations, the L'Enfant Plaza Station accident and the electrical arcing incidents at the Court House and McPherson Square Stations show that more needs to be done.

NTSB Urgent Recommendations After L'Enfant Plaza Accident

² R-10-007 through -022, August 10, 2007.

³ National Transportation Safety Board, *Washington Metropolitan Area Transit Authority Rear-end Collision*, RAB-12/04 (Washington, DC: National Transportation Safety Board, 2012).

⁴ National Transportation Safety Board, *Derailment of Washington Metropolitan Area Transit Authority Train near the Mt. Vernon Square Station, Washington, D.C. on January 7, 2007*, RAR-07-03 (Washington, DC: National Transportation Board, 2007).

⁵ National Transportation Safety Board, *Collision Between Two Washington Metropolitan Area Transit Authority Trains at the Woodley Park-Zoo/Adams Morgan Station in Washington, D.C. on November 3, 2004*, RAR- 06-01 (Washington, DC: National Transportation Safety Board, 2006).

⁶ National Transportation Safety Board, *Derailment of Washington Metropolitan Area Transit Authority Train No. 410 at Smithsonian Interlocking on January 13, 1982*, RAR-82-6 (Washington, DC: National Transportation Safety Board, 1982).

Soon after initiating the investigation into the L'Enfant Plaza Station accident, the NTSB identified concerns with the ventilation systems that required immediate action. On February 11, 2015, we made three urgent safety recommendations to the WMATA.⁷ The NTSB makes urgent recommendations to address circumstances that create an imminent danger to the public. These urgent recommendations called on the WMATA to: (1) assess the subway tunnel ventilation system, verifying that it is in good repair; (2) develop and implement detailed written ventilation procedures for its operation control center; and (3) base these procedures on the most effective strategy for fan direction and activation to limit passengers' exposure to smoke. In addition, we urged the WMATA to incorporate these procedures into its ongoing training and exercise programs.

In response to the urgent safety recommendations, the WMATA has informed the NTSB that it has completed the following actions: conducted a field assessment of the Metrorail system's 315 ventilation fans, verifying that 94 percent of the fans have no deficiencies, and have either repaired or scheduled for maintenance all remaining fans; procured the services of a technical services firm to update WMATA's emergency standard operating procedures for fire and life safety processes in tunnels and underground stations; and created a plan to develop an employee training program to implement the updated procedures. Therefore, we have reclassified these urgent safety recommendations "Open—Acceptable Response."

In a companion urgent safety recommendation issued on February 11, 2015, we also urged the FTA to audit all properties with underground rail operations to assess their ventilation systems.⁸ In response to this recommendation, the FTA directed all state safety oversight agencies (SSOA) with jurisdiction over the 25 rail transit agencies with subway tunnels to conduct audits to assess and inspect tunnel ventilation systems and related issues. We have also reclassified this urgent safety recommendation "Open—Acceptable Response."

The NTSB also issued a safety recommendation to the WMATA on June 8, 2015, addressing problems with the electrical connections in the Metrorail system.⁹ The NTSB asked the WMATA to inspect the cable connector assemblies and ensure that they are in accordance with WMATA's specifications, which includes the sealing sleeves. We are closely monitoring the WMATA's progress in implementing this recommendation, as well as all of the other safety recommendations issued to the WMATA that are classified "Open."

Urgent Recommendations to DOT Concerning WMATA Oversight

⁷ R-15-008 through -010, February 11, 2015.

⁸ R-15-007.

⁹ R-15-025.

The Intermodal Surface Transportation Efficiency Act of 1991 established the State Safety Oversight (SSO) program; this program went into effect in 1997. Under this program, states are responsible for the safety of the rail fixed guideway systems within their borders. Each state is required to establish an SSOA that sets requirements for rail transit safety and monitors the performance of rail transit agencies in accordance with those requirements.

Since the establishment of the SSO program, the NTSB has investigated serious accidents involving the WMATA and has identified inadequate oversight and regulation as a persistent problem. In general, the NTSB investigations of the WMATA have found that, although safety program plans were in place, they were not effectively implemented and overseen. It should be noted that the WMATA is the only transit property in the United States that involves three jurisdictions. Most transit properties involve one jurisdiction and a few involve two, but the WMATA is the only one with three. After the NTSB investigated the 2009 accident near the Fort Totten Station, we called for increased regulatory oversight of rail transit properties and recommended that the U.S. Department of Transportation (DOT) seek legislative authority to provide safety oversight.

On July 17, 2012, President Obama signed into law the Moving Ahead for Progress in the 21st Century Act (MAP-21).¹⁰ MAP-21 made a number of fundamental changes to the statutes that authorize the federal transit programs. Under the law, the FTA must certify oversight agencies, and, once certified, an SSOA can receive federal grant funds. To gain certification, an SSOA must show the FTA that it is financially independent of the rail transit system it oversees, has adequate authority to oversee those systems, and has adequate resources to hire appropriate staff.

To comply with the MAP-21 SSO program requirement, the FTA published the SSO Program final rule, which will take effect on April 15, 2016.¹¹ Among other things, the SSO rule gives the FTA the authority to review and approve each state's SSO program and take enforcement actions against those states with nonexistent or noncompliant safety oversight programs. In addition, it requires each state to establish an SSO program and ensure that the SSOA is financially and legally independent from any rail transit agency it oversees, and meets a number of requirements intended to assure that its oversight is effective. Each state with federally funded rail transit properties must have an SSO program approved by the FTA administrator by April 15, 2019.

In 2013, the TOC received notification from the FTA that it did not meet MAP-21 certification requirements. The FTA's concerns with the TOC focused on the TOC's effectiveness as a legal organizational model for overseeing the WMATA. In response, Governor McAuliffe (Virginia), then Governor O'Malley (Maryland), and then Mayor Grey (District of Columbia) wrote

¹⁰ Pub. L. 112-141.

¹¹ 81 FR 14229: (March 16, 2016)

to the Secretary of Transportation to authorize what they described as an actionable step to establish an independent SSOA that would conform to MAP-21. In doing so, they proposed the Metro Safety Commission (MSC), an independent organization that would assume the responsibilities of the TOC. The letter offered no detail, but it referenced a White Paper, *Optimizing State Safety Oversight of the WMATA Metrorail System*, prepared by the three jurisdictions. The White Paper described the three jurisdictions' collective ideal SSO program for the oversight of the WMATA and proposed actions necessary to achieve that ideal. However, it included no details about establishing legal authority in a way that overcomes the multijurisdictional problems faced by the current TOC. Finally, the authors admitted other challenges, such as resources; legislation at the local, state, and federal levels; and budgetary constraints of all three jurisdictions that may further limit progress in achieving an effective safety oversight program.

According to the TOC chairman's testimony at the NTSB investigative hearing on the L'Enfant Plaza Station accident, the earliest the MSC would come into existence is 2019. On March 1, 2016, Governor Hogan (Maryland), Governor McAuliffe (Virginia), and Mayor Bowser (District of Columbia) signed a memorandum of understanding (MOU) for cooperation in the establishment of the MSC. The parties agreed to commit staff, share information, procure professional services, and develop strategies with the goal of introducing enabling legislation for the MSC in 2016 to the Council of the District of Columbia and in 2017 to the Maryland and Virginia general assemblies. However, the NTSB remains concerned that Maryland, Virginia, and the District of Columbia will encounter legislative impediments that will delay the establishment of the MSC or other SSOA.

Based on 45 years of inadequate safety oversight of the WMATA Metrorail system, the NTSB issued urgent safety recommendations to the Secretary of Transportation on September 30, 2015, recommending that the DOT seek an amendment to 45 USC § 1104(3) to list the WMATA as a commuter authority, thus authorizing the Federal Railroad Administration (FRA) to exercise regulatory oversight of the WMATA and to direct the FRA administrator to develop and implement a plan to transition the oversight of the WMATA to the FRA within six months (attached).¹² The NTSB recommended the change in oversight because the FRA has robust regulatory and enforcement powers, allowing it to more effectively address hazards and improve the overall safety of the WMATA's rail operations. The Secretary of Transportation responded to the NTSB's urgent safety recommendations on October 9, 2015, acknowledging that the TOC lacked sufficient resources, technical capacity, and enforcement authority to provide the level of oversight needed to ensure safety at the WMATA. However, the Secretary disagreed with the NTSB recommendation to transfer safety oversight of the WMATA rail system to the FRA, citing the enhanced authority of the SSOAs and the authority in MAP-21 for the FTA to assume the safety oversight in the absence of an effective SSOA. The Secretary stated in his letter that the FTA would begin increased

¹² R-15-031 and -032.

oversight and would “directly enforce and investigate the safety oversight of WMATA.” He also said that the expanded authority would include orders and directives pursuant to Title 49 USC § 5329(f) and (g), require the WMATA to spend federal funds to address safety deficiencies, and amend the WMATA’s corrective action plan to include previous TOC notices of deficiencies, the implementation of which would be overseen directly by the FTA with the TOC’s assistance. The FTA oversight of the WMATA was to include unannounced facility inspections. The Secretary said the FTA would maintain a higher level of oversight “until a compliant and capable SSOA is established to replace the TOC.”

The NTSB remains concerned that, while the Secretary of Transportation tasked the FTA with assuming the authority of the SSOA, the FTA has very limited ability to oversee the WMATA effectively. The FTA has no prior experience in direct safety oversight or as an SSOA, has limited staff to carry out the function, and does not have the authority to levy civil or individual penalties in response to safety deficiencies. The NTSB understands that legislation enabling the creation of a fully functional SSOA for the WMATA may be a lengthy process, and the FTA’s temporary SSOA authority will likely exist longer than anticipated. Thus, on February 19, 2016, the NTSB reclassified the urgent safety recommendations “Open—Unacceptable Response.”

The NTSB is not alone in its concern about the ability of the FTA to conduct oversight activities effectively. On December 2, 2015, the DOT Office of the Inspector General announced its initiation of an audit of the FTA’s safety oversight program and assumption of the WMATA rail safety oversight, stating in a memorandum to the acting administrator of the FTA that, “FTA may face significant challenges in carrying out these new responsibilities.”

Although the Fixing America’s Surface Transportation Act,¹³ enacted in 2015, granted additional authority to the FTA, including the authority to exercise direct safety oversight of rail transit agencies when necessary to correct safety deficiencies and withhold not more than 25 percent of the Section 5307 financial assistance funds from recipients for noncompliance with safety regulations, we do not believe that these additional authorities address the concerns that we highlighted in the urgent safety recommendations. There are many uncertainties associated with the proposed FTA approach to WMATA oversight. DOT implementation of our urgent safety recommendations that the WMATA be ruled a commuter authority and that the FRA assume oversight responsibility for WMATA rail transit would eliminate these uncertainties because the FRA is an experienced regulatory safety oversight agency. The NTSB believes that the FRA is best positioned to oversee the WMATA Metrorail, but the DOT, nevertheless, is moving forward in implementing FTA oversight. The NTSB will monitor the efficacy of this decision and continue to champion consistently strong oversight for all rail transit agencies.

¹³ Pub. L. 114-94.

Conclusion

The NTSB's annual Most Wanted List highlights safety-critical actions that the DOT, other federal entities, states, and organizations need to take to help prevent accidents and save lives. In January, the NTSB released its Most Wanted List of transportation safety improvements for 2016. The NTSB's investigation of the L'Enfant Plaza accident illustrated that rail transit accidents continue to cause injuries and deaths, and yet oversight of rail transit is unreliable in some cases, increasing safety risks. Therefore, this year's Most Wanted List includes "Improve Rail Transit Safety Oversight."¹⁴

The L'Enfant Plaza Station accident and subsequent electrical arcing incidents at the Court House and McPherson Square stations demonstrate that more needs to be done to ensure the safety of the Metrorail system. Most importantly, an effective, independent oversight system must be created to ensure that the highest possible level of safety is afforded to the American public

Thank you for the opportunity to testify before you today. I look forward to responding to your questions.

¹⁴ National Transportation Safety Board, *2016 Most Wanted List: Improve Rail Transit Oversight*.

Biography



Honorable Christopher A. Hart

Member Christopher A. Hart was sworn in as Chairman of the National Transportation Safety Board on March 17, 2015. He was originally sworn in as a Member of the Board on August 12, 2009 and designated by the President as Vice Chairman on August 18, 2009. In August 2013, President Obama nominated him for a second term as Board Member and after Senate confirmation of his nomination, the President, in October 2013, designated him for a third term as Vice Chairman. He has served as Acting NTSB Chairman since April 26, 2014.

Hart joined the Board after a long career in transportation safety, including a previous term as a Member of the NTSB. Immediately before returning to the Board in 2009, Member Hart was Deputy Director for Air Traffic Safety Oversight at the Federal Aviation Administration (FAA). He was previously the FAA Assistant Administrator for System Safety.

He served as a Member of the NTSB from 1990 to 1993. After leaving the Board, he served as Deputy Administrator of the National Highway Traffic Safety Administration, before moving to the FAA in 1995.

From 1973 until joining the Board in 1990, Member Hart held a series of legal positions, mostly in the private sector. He holds a law degree from Harvard University and Master's and Bachelor's degrees in Aerospace Engineering from Princeton University. He is a member of the District of Columbia Bar and the Lawyer-Pilots Bar Association.

Hart is a licensed pilot with commercial, multi-engine, and instrument ratings.

Hart's family has a tradition of accomplishment in the field of transportation. His great uncle, James Herman Banning, was the first African-American to receive a pilot's license issued by the U.S. Government in 1926.

His 2 year appointment as Chairman will end March 17, 2017.

His 5 year term as a Member will end 12/31/17.



National Transportation Safety Board
Washington, DC 20594

Safety Recommendation

Date: September 30, 2015

In reply refer to: R-15-31 and -32 (Urgent)

The Honorable Anthony Foxx
Secretary of Transportation
US Department of Transportation
Washington, DC 20590

The National Transportation Safety Board (NTSB) urges the US Department of Transportation (DOT) to take action on the urgent safety recommendations issued in this letter. These recommendations address the continued failure of the Tri-State Oversight Committee (TOC) to provide effective safety oversight of the Washington Metropolitan Area Transit Authority (WMATA). These recommendations are derived from our ongoing investigation of the WMATA Metrorail smoke and arcing accident at the L'Enfant Plaza station on January 12, 2015, and from other events indicating inadequate oversight of WMATA. Facts supporting these recommendations are discussed below.

Background

On Monday, January 12, 2015, about 3:15 p.m. eastern standard time, WMATA Metrorail Yellow Line train 302 stopped after encountering an accumulation of heavy smoke while traveling southbound in a tunnel between the L'Enfant Plaza station and the Potomac River bridge in the District of Columbia.

About 400 passengers were on board the six-car passenger train at the time of the accident. Some passengers self-evacuated from the train, while others were assisted by emergency responders. The smoke originated from an arcing event near the third rail about 2,000 feet south of the L'Enfant Plaza station. Smoke filled the L'Enfant Plaza station causing an evacuation of the station. District of Columbia Fire and Emergency Management Services reported that 86 people were treated and transported from the scene; another 9 passengers self-transported to medical facilities. There was one passenger fatality.

On Tuesday, June 23, 2015, the NTSB convened a 2-day investigative hearing to gather additional factual information for the ongoing investigation of the accident. The investigative hearing focused on the following areas:

- State of WMATA's infrastructure
- Emergency response efforts
- WMATA's organizational culture
- Federal Transit Administration (FTA) and TOC efforts for public transportation safety

Rail Transit Operations

Rail transit operations are an inherently local activity, and the FTA has limited responsibility for the safety of rail transit operations. In the Intermodal Surface Transportation Efficiency Act of 1991, Congress directed the FTA to establish the State Safety Oversight (SSO) program; this program went into effect in 1997. Under this program, states are responsible for the safety of the rail fixed guideway systems within their borders. Each state is required to establish a state safety oversight agency (SSOA) that sets requirements for rail transit safety and monitors the performance of rail transit agencies in accordance with those requirements. The FTA established minimum requirements for the safety programs that the state agencies implement and oversees the efforts of the state agencies in carrying out the programs.

Since the establishment of the SSO program, the NTSB has investigated serious accidents involving rail transit systems; several of these accidents involved WMATA.¹ Many of the accident investigations identified inadequate oversight and regulation. In general, the NTSB investigations of WMATA found that although safety program plans were in place, they were not effectively implemented and overseen. In the NTSB's investigation of the June 22, 2009, WMATA accident near the Fort Totten station, we called for increased regulatory oversight of rail transit properties and recommended that the DOT seek the authority to provide safety oversight of rail fixed guideway transportation systems, including the ability to promulgate and enforce safety regulations and minimum requirements governing operations, track and equipment, and signal train control systems.

On July 6, 2012, the President signed into law the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, with an effective date of October 2, 2012. MAP-21 made a number of fundamental changes to the statutes that authorize the federal transit programs in Title 49 *United States Code (USC)* Chapter 53. The Public Transportation Safety Program requires the Secretary of Transportation to create and implement a national public transportation safety plan to improve the safety of all public transportation systems that receive funding from the FTA. The statute requires the contents of this plan to include the following:

1. Safety performance criteria for all modes of public transportation
2. Definition of the term "state of good repair"
3. Minimum safety performance standards for public transportation vehicles used in revenue operations that
 - a. do not apply to rolling stock otherwise regulated by the Secretary or any other federal agency
 - b. to the extent practicable, take into consideration
 - i. relevant recommendations of the National Transportation Safety Board
 - ii. recommendations of, and best practices standards developed by, the public transportation industry

¹ See, for example, NTSB accident reports: RAR-82-06, RAR-96-04, RAR-06-01, RAR-07-03, RAR-10-02, RAR-12-04, RAB-08-01, RAB-08-02, RAB-12-04, RAB-12-05, and DCA15FR004 preliminary report *Washington Metropolitan Area Transit Authority Arcing/Smoke Event with Passenger Evacuation, L'Enfant Plaza Station, Washington, DC, January 12, 2015*.

4. A public transportation safety certification training program

The FTA is still in the process of implementing the requirements of MAP-21. During the NTSB's June 23–24, 2015, investigative hearing into the WMATA L'Enfant Plaza accident, the FTA Associate Administrator for Transit Safety and Oversight was questioned about the implementation of the requirements of MAP-21. The Associate Administrator testified that the FTA's current rulemaking would include the elements stated above; however, he provided no specific timeline for completion of the rulemaking.²

Until the rail transit safety rulemaking called for by MAP-21 is complete, Title 49 *Code of Federal Regulations (CFR) Part 659 (Rail Fixed Guideway Systems; State Safety Oversight)* remains in effect, and SSOAs will continue using this regulation to conduct safety oversight. Although the FTA is responsible for overseeing the work of the SSOAs and for partially funding rail transit agencies through grants, it has a very small staff to regulate, audit, investigate, and administer the SSO program.

There are 32 SSOAs overseeing 50 rail transit systems.³ The level of expertise within each SSOA, the methods used to assure safety, and the agencies' resources vary and are not necessarily commensurate with the amount of rail transit activity for which each agency is responsible. Of the 50 rail transit systems, 3 operate in multiple states and cross state boundaries:

- WMATA – District of Columbia, Maryland, and Virginia
- Port Authority Transit Corporation (PATCO) – Pennsylvania and New Jersey
- Metro Transit-St. Louis (MetroLink) – Missouri and Illinois

The three SSOAs for transit agencies that operate across state boundaries face the challenges of managing oversight authorities and responsibilities among different jurisdictions under separate bureaucracies. A 2006 report by the Government Accountability Office stated that although the oversight programs of MetroLink and PATCO appeared to be working well, WMATA's oversight program "experienced difficulty obtaining funding, responding to FTA information requests, and ensuring audit findings are addressed."⁴

WMATA

WMATA is unique in that it is the only rail transit agency in the country with an SSOA made up of representatives from three jurisdictions (Maryland, Virginia, and the District of Columbia); it is the Tri-State Oversight Committee (TOC). The TOC was established in 1997 by a memorandum of understanding (MOU) between the Virginia Department of Rail and Public

² We note that the August 2015 *Report on DOT Significant Rulemakings* states that the FTA rulemaking on the Public Transportation Safety Program indicates that a draft notice of proposed rulemaking (NPRM) had not yet been sent to the Office of Management and Budget and projects the publication date of the NPRM to be October 21, 2015.

³ Federal Transit Administration. *State Safety Oversight (SSO) Program Annual Report for 2005* (Washington, DC: US Department of Transportation, Federal Transit Administration, 2005). http://www.fta.dot.gov/TSO/12537_12950.htm, accessed August 31, 2015.

⁴ Government Accountability Office, *RAIL TRANSIT: Additional Federal Leadership Would Enhance FTA's State Safety Oversight* (Washington, DC: Government Accountability Office, 2006). <http://www.gao.gov/products/GAO-06-821>, accessed August 31, 2015.

Transportation (VDRPT) and the Departments of Transportation of Maryland (MDOT) and the District of Columbia (DCDOT). Amended in 2008 and again in 2010, the MOU specifies that the TOC be composed of six representatives, two from each of those agencies. The secretaries of transportation for the State of Maryland and the Commonwealth of Virginia and the director of transportation for the District of Columbia select their respective members. The MOU specifies that TOC members must select a chair and a vice chair who serve in those capacities for 2 years. At the end of the 2-year term, the vice chair becomes the chair, and a new vice chair is selected by the TOC members.

As the designated SSOA for WMATA, the TOC is required to develop and adopt a System Safety Program Standard, a document that establishes the relationship between the oversight agency and the rail transit agency and that specifies the requirements that the rail transit agency must follow.⁵ The program standard must include requirements for safety practices to reduce the likelihood of unintentional events that may lead to death, injury, or property damage and security practices to reduce intentional wrongful or criminal acts or terrorist activities. The TOC does not conduct independent inspections of equipment, infrastructure, or operations as part of its safety oversight activities.⁶ The TOC has no regulatory or enforcement authority, such as the ability to initiate or levy civil penalties. It must rely on WMATA to respond appropriately and in a timely manner to any safety concern, finding, or recommendation the TOC makes.

Under the requirements of MAP-21, the FTA must certify oversight agencies, and, as a result of certification, an SSOA can receive federal grant money. To gain certification, an SSOA must show the FTA that it is financially independent of the rail transit system it oversees, it has adequate authority to oversee those systems, and it has adequate resources to hire appropriate staff. In 2013, the TOC received notification from the FTA that it did not meet MAP-21 certification requirements. Until the TOC is certified, it is not eligible for FTA SSOA funding grants. The FTA's concerns with the TOC focused on the TOC's effectiveness as a legal organizational model for overseeing WMATA. The following is a summary of issues cited by the FTA that led to the TOC's not receiving certification:⁷

1. The TOC is a committee created by MOU between the VDRPT, MDOT, and DCDOT.
2. Beyond the MOU, the TOC has no enabling legislation, administrative code, or set of regulations that each jurisdiction has adopted to enforce safety provisions for WMATA.
3. As a committee created by MOU, the TOC is not a legal agency of any state but it is a "working group" responsible for implementing the FTA's existing SSO program requirements (49 *CFR* Part 659).
4. As a committee, not a legal agency of a state, the TOC cannot hire staff, establish qualifications or training requirements, promulgate or enforce legislation or regulations, issue contracts, or take independent action.
5. As specified in the MOU, each jurisdiction (VDRPT, MDOT, and DCDOT) contributes one full-time and one part-time staff member to serve on the TOC. The jurisdictions appoint these members based on their own preferences and considerations. As a result,

⁵ Title 49 *CFR* 659.15, System Safety Program Standard.

⁶ TOC Program Standards and Procedures, Exhibit F3, January, 2011, NTSB Docket, DCA15FR004.

⁷ FTA GAP Analysis for the TOC with Attachments, Exhibit F1, October 2013, NTSB Docket, DCA15FR004.

the TOC has no uniform standards or qualifications for its members and no standard terms for employees.

6. TOC members are not managed and directed by the TOC but instead by their home jurisdictions. As a result, they can be moved or directed to support other safety or oversight activities in those home jurisdictions. For example, FTA SSO audits have found that MDOT and DCDOT both move their TOC members around to support other oversight programs (MDOT's program for the Maryland Transportation Administration) or agency safety obligations (engineering and construction of the DC Streetcar program).
7. The TOC chair position rotates every 2 years from jurisdiction to jurisdiction. This continual change in leadership exacerbates challenges for both TOC staff and WMATA in maintaining continuity and building expertise.
8. The TOC's members report up through the management and decision-making structures of the three separate jurisdictions. This situation makes it difficult for TOC members in the field to take expedient or independent action and to build consensus with each other regarding safety issues at WMATA. Findings, concerns, and approvals sometimes must move up the management structures of all three jurisdictions and back down to staff before any action can be taken.
9. All three jurisdictions have their own funding and political relationships with WMATA, with the counties serviced by WMATA, with the WMATA Board, and with each other.
 - a. The director of DCDOT serves as a member of the WMATA Board
 - b. All three jurisdictions have joint projects with WMATA
 - c. All three jurisdictions provide subsidies and funding to WMATA

In a February 26, 2014, letter to the Secretary of Transportation, Governor McAuliffe (Virginia), then Governor O'Malley (Maryland), and then Mayor Grey of the District of Columbia authorized what they described as an actionable step to establish an independent state oversight agency that would conform to MAP-21. In doing so they proposed the Metro Safety Commission (MSC), an independent organization that would assume the responsibilities of the TOC. The letter offers no detail, but it references a White Paper, *Optimizing State Safety Oversight of the WMATA Metro Rail System*, prepared by their respective jurisdictions.

The White Paper includes a discussion of the inherent barriers that the structure and function of the TOC pose for effective implementation of the SSO program.⁸ The paper describes the different jurisdictions' ideal SSO program for the oversight of WMATA and proposes actions necessary to achieve that ideal. It proposes to carry out this effort in two phases, acknowledging the time-consuming procedures and negotiations that would be required. Phase one is the creation of a strengthened Interim TOC Oversight Program, and phase two is either the legal creation of an MSC or federal oversight of WMATA's safety oversight functions.⁹

⁸ Tri-State Oversight Committee Oversight Program White Paper, *Optimizing State Safety Oversight of the WMATA Metro Rail System* (The District of Columbia, Maryland, and Virginia: 2010).

⁹ MAP-21 does not provide for direct federal safety oversight, and this alternative approach will not be pursued.

The White Paper proposes specific board membership, director, staff, facility, and funding requirements for the MSC. It includes discussion of the need for legal independence and authority for the MSC to conduct and enforce safety oversight of WMATA. However, the paper includes no details about establishing legal authority in a way that overcomes the multijurisdiction problems faced by the current TOC. Finally, it concedes that phase two will entail actions that will “consume years” to create. In the paper, the authors admit other challenges such as resources; legislation at the local, state, and federal levels; and budgetary constraints of all three jurisdictions that may further limit progress in achieving a robust safety oversight program. According to the TOC chairman, the earliest the MSC would come into existence is 2019.¹⁰

Discussion

The NTSB is concerned about the ongoing challenges to effective safety oversight of WMATA. The TOC’s current approach to assuring safety of WMATA consists of audits, reviewing required WMATA safety plans, following up on reported accidents and incidents, and corrective action plans developed in response to audit findings or accident investigations. MAP-21 was enacted to create a national public transportation safety plan to improve safety of all public modes of transportation. It calls for an increased level of independent oversight of rail transit agencies. MAP-21 requires the establishment of safety performance criteria and performance standards, which serve as the foundation of a safety management system (SMS). The FTA Associate Administrator testified during the NTSB investigative hearing on the L’Enfant Plaza accident that MAP-21 is very similar to the current 49 *CFR* Part 659, stating, “It just has a higher bar of what’s required for the state safety oversight agencies.”

Testimony given at the investigative hearing demonstrated that although both the TOC and WMATA have made progress since the 2009 Fort Totten accident, significant safety, oversight, and organizational issues still exist in both agencies. The TOC has only three full-time employees, and each employee is paid by and accountable to a different jurisdiction: Maryland, Virginia, or the District of Columbia. The TOC has no offices; the TOC staff participates in audits but has not conducted a single investigation into any accident or incident, because all investigations have been delegated to WMATA; and the TOC has no enforcement authority.¹¹

FTA enforcement authority will not change significantly under MAP-21. Because the FTA’s safety authority primarily relies on SSOAs, it does not wield the same regulatory enforcement tools to compel safety compliance that are available to other agencies such as the Federal Railroad Administration (FRA). The FTA envisions using an SMS approach to implement the National Public Transportation Safety Plan that systemically and proactively identifies the factors that contribute to unsafe events and prevents or minimizes the likelihood of their occurrence.¹² The NTSB agrees that an SMS is a critical component of assuring organizational safety, and we look forward to increased oversight under MAP-21. However, neither MAP-21 nor 49 *CFR* Part 659 provides regulatory enforcement tools to compel compliance that are available to other agencies such as the FRA. Title 49 *CFR* Part 659 provides no authority for the FTA to conduct inspections of rail transit agencies, and although MAP-21 does include some additional authorities for the FTA, the only FTA enforcement tool is to

¹⁰ TOC Plan for Transition to MSC, Exhibit F14, March 9, 2015, NTSB Docket, DCA15FR004.

¹¹ Title 49 *CFR* Part 659 authorizes an SSOA to delegate accident investigations to the transit agency.

¹² *Federal Register* 78, no. 192 (October 3, 2013): 61254.

withhold funds or require funds to be spent to correct a safety deficiency.¹³ According to the FTA,

safety oversight reviews would focus on the overall safety performance of an entire organization and effective implementation of the methods for identifying and evaluating safety risks and to mitigate exposure to those risks, instead of relying solely on strict compliance with regulatory requirements or technical standards.¹⁴

The infrastructure complexities of WMATA's system are comparable to those of commuter rail systems that are currently regulated by the FRA. The FRA exercises jurisdiction over all commuter services, as defined in 45 *USC* Section 1104(4), as provided by "commuter author[ities]" specifically enumerated in 45 *USC* 1104(3), including the Port Authority Trans-Hudson Corporation (PATH).¹⁵

PATH operates a 13.8-mile rapid transit system between New Jersey and New York. About one-half of the track is below ground level. Over 1,248 train movements per day carry about 244,000 passengers 5 days per week. Four major terminals and nine intermediate stations serve the closed system. PATH has 10 different speed limits ranging from 8 mph to 55 mph; the average speed over the system is about 20 mph. The FRA's authority to regulate this system is derived from 45 *USC* Section 1104(3), which means PATH is subject to FRA safety enforcement and oversight. PATH is a rail transit system similar to WMATA.

The FRA has established and developed robust inspection, oversight, regulatory, and enforcement authority and conducts regular safety compliance inspections of railroads. Title 49 *CFR* Part 209 describes the procedures used by the FRA in its enforcement of federal railroad safety statutes and regulations. According to appendix A to Part 209, those statutes include the Federal Railroad Safety Act of 1970 and a group of statutes enacted before 1970 referred to as the "older safety statutes." Other statutes include the Rail Safety Improvement Act of 1988, which raised the maximum civil penalties available under railroad safety laws and made individuals liable for willful violations of those laws.

The FRA administers and enforces the federal laws and related regulations designed to promote safety on railroads and exercises jurisdiction over all areas of railroad safety, such as track maintenance, inspection standards, equipment standards, and operating practices. It also administers and enforces regulations enacted under railroad safety legislation for locomotives, signals, safety appliances, power brakes, hours of service, transportation of explosives and other dangerous articles, and the reporting and investigation of railroad accidents. Railroad and related industry equipment, facilities, and records are inspected, and required reports are reviewed.

¹³ A proposed rule to establish a framework for the US Department of Transportation's authority, delegated to the FTA administrator, to monitor, oversee, and enforce safety in public transportation is at *Federal Register* 80, no. 157 (August 14, 2015): 48794.

¹⁴ *Federal Register* 78, no. 192 (October 3, 2013): 61255.

¹⁵ Title 45 *USC* Section 1104(3) designates the following entities as "commuter author[ities]": Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation, the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, and any entity created by one or more such agencies for the purpose of operating, or contracting for the operation of, commuter service.

The FRA issues and enforces railroad safety regulations, administers railroad financial assistance programs, conducts research and development in support of improved railroad safety and national rail transportation policy, provides for the rehabilitation of Northeast Corridor rail passenger service, and consolidates government support of rail transportation activities. FRA inspectors document noncompliance on inspection reports. The FRA has several tools available when inspectors find that railroads are noncompliant with applicable regulations. It can issue civil penalties, individual liability penalties, compliance orders, and emergency orders. In contrast, the FTA and the TOC do not have such tools.

The FRA fulfills its mission through safety compliance inspections, audits, and accident investigations. Annually the FRA develops a National Inspection Plan (NIP).¹⁶ The NIP is intended to reduce accidents by providing guidance to each FRA regional office on how inspectors in each of the five FRA disciplines—track, operating practices, motive power and equipment, signal and train control, and hazardous materials—should divide their work by railroad and state. Under this approach, the FRA uses data models to focus its inspectors' efforts in places deemed likely to have safety problems. The FRA headquarters uses accident, inspection, and other data to specify, by inspection discipline, numeric goals for the level of inspection activity to allocate to each railroad, by state. FRA regional administrators may adjust these goals for their respective regions based on local knowledge and emerging issues to allow regions to respond to new and/or unexpected events such as major accidents. The FRA monitors how the regions are meeting their inspection goals on an annual basis, and the regions are required to submit reports on any missed NIP goals. Furthermore, the FRA investigates all safety complaints from individuals, state and federal agencies, and railroads and their employees.

The FRA enforces the federal railroad safety regulations and laws with about 400 federal safety inspectors whose efforts are supplemented by about 165 state inspectors from states that participate in the FRA's State Inspection Program. Both Maryland and Virginia participate in the FRA's program. The state programs are important supplements to the NIP established by the FRA. The state inspectors coordinate with federal inspectors while monitoring the safety practices of each railroad company operating in the states. State inspectors are certified by the FRA. As states participating in the FRA state program, Maryland employs three FRA-qualified inspectors and Virginia employs six FRA-qualified inspectors. The role of the FRA-qualified inspectors is to inspect operating practices, motive power and equipment, and track and structures.

Another recent event illustrates the value that FRA oversight could bring to WMATA. On August 6, 2015, WMATA Metrorail train 412, a nonrevenue employee train, derailed on approach to the D02 (Smithsonian) Interlocking on track 2. Three of the six cars in the consist derailed. The derailed cars had not reached the switch points of the interlocking. WMATA's investigation into the derailment revealed that on July 9, 2015, a WMATA track geometry vehicle performed track measurement inspections on the Orange line of the Metrorail system through the area where the train derailed. This inspection identified a gage defect of 58.09 inches at chain marker D2-22+41 between the Federal Triangle station and the Smithsonian station, the

¹⁶ The new National Rail Safety Action Plan was developed in response to a 2004 DOT Office of the Inspector General recommendation that the FRA develop a comprehensive program to use available data to focus inspection activities.

area where train 412 derailed. This gage exceeded WMATA's maximum gage standard of 57.75 inches, a condition often referred to as wide gage.

Track gage is the spacing of the rails measured between the inner faces of the load-bearing rails. Wide gage impedes the wheel-rail interface, and derailment is likely. WMATA policy requires immediately removing the track from service because of wide gage, as identified on July 9, 2015, until repairs are completed.¹⁷ WMATA confirmed both the wide gage at the subsequent point of derailment and that this out-of-service track condition remained between July 9, 2015, and the August 6, 2015, derailment. For 27 days this gage defect remained in the track while WMATA continued to run revenue service trains over the track, with no reduction in speed or other mitigation.

FRA inspectors enforce the requirements set forth as Track Safety Standards in 49 *CFR* Part 213 in addition to operating practices and equipment safety standards for railroad operations. Track gage must be maintained within prescribed limits, or the track must be removed from service or the maximum track speed must be reduced.

Crosstie and wide gage defects are the second leading cause of derailments across the nation's railroads. The identification of track geometry defects during routine inspections is complex. Track geometry test vehicles using computerized tools enhance track inspections. FRA inspectors conduct ride-alongs on railroad-operated geometry cars. FRA inspectors monitor the data collected and observe remedial actions taken when defective conditions are identified. The FRA also operates its own geometry test vehicles under the Automated Track Inspection Program (ATIP). On an ATIP survey, an FRA inspector has the authority to stop the vehicle and objectively verify the defective conditions measured.

The role of FRA inspectors may vary depending on operational requirements. The FRA model includes data integrity oversight. Additionally, assurance of proper protection and remedial action are included. In many circumstances, after verification, the FRA may recommend a civil penalty assessment on the railroad if it is determined that the defective condition put railroad employees or the general public at risk.

With FRA oversight in place, the wide gage noted on July 9, 2015, would have required the track to be removed from service. Operations could have continued only after a designated person determined that operations could safely continue. Any operation also would be subject to limiting conditions specified by such person and at a maximum speed of 15 mph for a period of no longer than 30 days.¹⁸

Under the current safety oversight structure, the TOC does not have the authority to levy penalties or stop Metrorail revenue service for a track gage problem such as the one that existed for 27 days near the Smithsonian station and resulted in the derailment. Further, the only FTA enforcement action allowed under MAP-21 is withholding funds or directing funds to correct safety conditions.

¹⁷ WMATA 1000 Track Maintenance and Inspection Manual.

¹⁸ Title 49 *CFR* Part 213.

Conclusion

Regulatory assurance of compliance with standards and direct inspection and enforcement authority provides an increased measure of safety across all modes of transportation. The TOC currently does not have the authority, the expertise, or the resources to provide assurance of compliance. The TOC does not have a standardized set of regulations to draw upon. The TOC cannot issue civil penalties, individual liability penalties, compliance orders, or emergency orders nor can it conduct independent inspections.

The NTSB has initiated 11 investigations on the WMATA rail system over the past 33 years. In total, these accidents and incidents have resulted in 18 fatalities. Many of the NTSB investigations determined that WMATA's inadequate management of its operation contributed to the events, and based on the repeated and ongoing deficiencies identified during its investigations of accidents and incidents involving WMATA, the NTSB concludes that the TOC cannot perform effective safety oversight of the WMATA rail system. Based on testimony from representatives of the TOC and the FTA during the NTSB's June 23, 2015, investigative hearing on the January 12, 2015, WMATA Metrorail accident, the NTSB further concludes that neither the regulatory changes the FTA can make as a result of MAP-21 nor the proposed creation of a Metro Safety Commission will likely resolve the deficiencies identified in safety oversight of WMATA.

The FRA has an established state inspection program whereby states can participate in regulatory oversight. The District of Columbia, the State of Maryland, and the Commonwealth of Virginia, through the FRA's state inspection program, could remain involved in safety oversight of WMATA.

Without adequate oversight, accidents and incidents will continue to place the riders of the WMATA system at risk. The NTSB therefore proposes that the DOT seek the authorization under 45 *USC* Section 1104 to classify WMATA as a commuter authority, thus placing WMATA under the regulatory authority of the FRA.

The Congress is currently working on a surface transportation bill to reauthorize the DOT's surface transportation administrations, including the FRA and the FTA. This provides an opportunity to revise 45 *USC* Section 1104(3) to list WMATA as a commuter authority, thus placing WMATA under FRA regulatory oversight.

Therefore, the NTSB makes the following urgent safety recommendations to the US Department of Transportation:

Seek an amendment to Title 45 *United States Code* Section 1104(3) to list the Washington Metropolitan Area Transit Authority as a commuter authority, thus authorizing the Federal Railroad Administration to exercise regulatory oversight of the Washington Metropolitan Area Transit Authority's rail system.
(R-15-31) (Urgent)

After Title 45 *United States Code* Section 1104(3) is amended to include the Washington Metropolitan Area Transit Authority, direct the Administrator of the Federal Railroad Administration to develop and implement a plan to transition the oversight of the Washington Metropolitan Area Transit Authority's rail system to the Federal Railroad Administration within 6 months. (R-15-32) (Urgent)

Chairman HART, Vice Chairman DINH-ZARR, and Members SUMWALT and WEENER concurred in these recommendations.

We are vitally interested in these recommendations because they are designed to prevent accidents and save lives. We would appreciate receiving a response from you within 30 days detailing the actions you have taken or intend to take to implement them. When replying, please refer to the safety recommendations by number. We encourage you to submit your response electronically to correspondence@ntsb.gov.

[Original Signed]

By: Christopher A. Hart,
Chairman

Mr. MICA. Thank you, Mr. Hart.
And I'll recognize Ms. Flowers with FTA at this point.
You're recognized.

STATEMENT OF CAROLYN FLOWERS

Ms. FLOWERS. Chairmen Mica and Meadows, Ranking Members Duckworth and Connolly, and members of the Committee, thank you for inviting me to discuss the Washington Metrorail system.

At the FTA, the safety of public transportation passengers and workers is our single highest priority. Transit is among the safest ways to travel in communities throughout this country. However, here in Washington, D.C., serious incidents, crashes, and safety lapses have highlighted the need for change and improvement.

In 2012, with the passage of MAP-21, Congress granted FTA the authority to oversee the safety of public transportation through the existing State safety oversight agency structure. Since then, FTA has reorganized and significantly strengthened safety staffing and oversight functions that take on the new Federal oversight role.

Each transit agency is still responsible for inspecting its own infrastructure and conducting the necessary training to keep their services safe. FTA oversees the State Safety Oversight Agencies, or SSOAs, which in turn provide day-to-day oversight of real transit safety. That leaves FTA with the ability to shape nationwide safety standards, to issue directives, and to step in where those SSOAs are not able to do so.

After the tragic January 2015 L'Enfant Plaza smoke incident, FTA exercised our safety authority by conducting a safety management inspection of Metrorail and Metrobus, which resulted in 54 safety findings. Our inspection report identified numerous deficiencies and operational concerns.

In October 2015, Secretary Foxx instructed FTA to temporarily assume the responsibilities of the local SSOA, the Tri-State Oversight Committee, or TOC, which has lacked adequate enforcement authority.

Since last fall, FTA's been on the site at Metro providing direct safety oversight of Metrorail. Our safety team is comprised of subject matter experts from across the Department. This team has transit industry knowledge and expertise, technical ability, and enforcement power to improve Metrorail safety.

Over the past several months, on a daily basis, we have conducted inspections and investigations and verified corrective actions. As of last week, FTA had conducted 107 inspections that covered track, Rail Operations Control Center, vehicle and systems maintenance, automatic train control, and traction power. During these inspections we identified 229 defects, requiring 66 remedial actions by Metro. In addition, we are directing 140 open investigations.

In late March, FTA initiated a three-part safety blitz, which is an intensive, targeted series of inspections that focused on three areas: red signal overruns, track integrity, and rail vehicle security.

The FTA role is temporary. FTA's role in direct safety oversight is temporary. It is critical that Maryland, Virginia, and the District of Columbia join together to create an SSOA with adequate authorities and resources. Secretary Foxx urges in actions and words

that the three jurisdictions come together with all haste to create the Metro safety commission that the local jurisdictions first outlined 6 years ago.

In closing, as the former CEO of the Charlotte Area Transit System and the COO of the Los Angeles Metro system, I know that it is a challenge to balance safety and service demands, but keeping people safe is not a choice. For our part, FTA took action to focus on Metrorail safety condition as both an urgent and critical problem requiring immediate and decisive action. FTA's oversight activities focus on Metrorail's serious safety needs for the short term, and we continue our work with the local jurisdictions to establish a new and effective SSOA for the long term.

Thank you for calling this hearing. And together with FTA's executive director, Matt Welbes, I look forward to answering your questions.

[Prepared statement of Ms. Flowers follows:]

**STATEMENT OF CAROLYN FLOWERS,
SENIOR ADVISOR,
FEDERAL TRANSIT ADMINISTRATION,
U.S. DEPARTMENT OF TRANSPORTATION**

**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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Mr. MICA. I thank all of our witnesses for their testimony.

I'm going to dive right into questions. I want to separate my questions into two part. First, I want to talk about the incident of January 12, our subsequent hearing on February 13. Then I want to look at the overall picture of Mr. Evans said the crisis and chaos in Metro.

So, first of all, after the incident we held a hearing. Mr. Hart and I went down personally, inspected the cable, we identified what we thought was the problem. You've identified it again here today. Then you told me you gave recommendations to WMATA by June. Is that true?

Mr. HART. Correct.

Mr. MICA. Okay. And I just heard you, Ms. Flowers, you've given a number, you've verified deficits, safety deficits. When did you first give them? Did you go in—do you recall when you went in after the January death?

Ms. FLOWERS. So we went in June of last year.

Mr. MICA. You gave them to them in June last year. Okay, we've got two nodding heads here.

I have a problem because the current WMATA director, administrator, manager is not there then. But the first thing you would have done—and I'm not the sharpest electrical engineer on the block—is go in and change out those cables that we saw were shorted that didn't have proper seals and that were arcing. Can you tell us what was done, Mr. Acting General Manager or Mr. Evans?

Mr. WIEDEFELD. I can tell you, 65 percent of them are done.

Mr. MICA. Were they done after June, and to what date?

Mr. WIEDEFELD. That's to date.

Mr. MICA. To date, okay. But they're still not done?

Mr. WIEDEFELD. That's correct.

Mr. MICA. And we think the arcing was also the problem of the smoke and why you shut it down March 16, right?

Mr. WIEDEFELD. Right. I'm not sure yet—

Mr. MICA. So there's about 35 percent undone of the cables. Okay.

Mr. WIEDEFELD. Yes.

Mr. MICA. I got involved in this after that because we found out what we asked you to do years ago and promised you \$150 million, \$1.5 billion to get the communications and some other things, that's our contribution to capital improvements, was only done at the station. That's why we probably lost that life, because they couldn't communicate.

You've been there now a short time. Is the communications, wireless communications agreement finalized to finish it?

Mr. WIEDEFELD. Yes, it is.

Mr. MICA. It is, okay, and that's underway. When do you anticipate that that would be done?

Mr. WIEDEFELD. What we're doing is we're doing a 1-mile section in a tunnel as a pilot.

Mr. MICA. When is the finish date?

Mr. WIEDEFELD. What we are going to do is after we see how we are trying to do that, then we are going to come out with the schedule based on that, because we don't—

Mr. MICA. You think it will take a year. You don't know. You're going to see what it takes to do a mile at a time.

Mr. EVANS. No, I'm going to do—we're going to do a mile as a pilot.

Mr. MICA. With 118 miles that we have.

Mr. EVANS. No, we're going to do a mile as a pilot, and then we're going to come out with a schedule based on what we learn from doing it for that mile.

Mr. MICA. We need to restore public confidence. They can get—people can get on that and have no rescue means. At least they have their personal communication device that doesn't work within the tunnels. It may work in the stations, as we saw, but somebody died.

Okay, so that needs attention, that's part of what I wanted resolve and threatened to withhold money if we didn't get something done.

This money game is mind-boggling. I asked what's WMATA's unliquidated balance in open grants and money coming from the Federal Government as of the 18th of March. It's \$783 million. It's not like they don't have the money. Last year, in 2015, they had \$485 million available. They had the money available, what they have is incompetence, not to get the job done.

Now, you're new kid on the block and we're counting on you. But I want people fired, I want something done. Now, we got—you got the communication system underway. We've got to resolve the arcing. The arcing causes smoke and people die and the thing is in chaos. You closed it down for 29 hours. You have falling ridership and you have increasing operational costs, I see here.

Okay, let me—this burns me.

Now, this caused me to go deeper into your finances. I heard you, Mr. Evans, and you gave a nice presentation. I was here in 1995 when we put the control board in, we disbanded the District government. You were running three-quarters of a billion dollars in debt—three-quarters of a billion dollars in debt. You add all kinds of unfunded liabilities, pensions, everything. It was the most screwed-up mess I've ever seen in business or government.

What's your current surplus in the District? What are you running, half a billion, \$500 million?

Mr. EVANS. Right now we have \$2.17 billion in our reserve funds and we run about—

Mr. MICA. Okay, well, let's step up to the plate. You're dealing with people who are broke. I'm telling you I am not going to bail you out. I am not going to support bailing out the District of Columbia.

Mr. EVANS. You're not bailing us out.

Mr. MICA. It is bailing out. Look at the operational. I compared Chicago, 75 percent of the capital funds come from local and State money. In SEPTA, Pennsylvania, 61 percent, WMATA 44 percent. Nobody gives more money for capital improvements, nobody has more money available than you all have available. So, again, please don't come here. There's lots of money available. What we don't have—we have money available, we don't have leadership, we don't have management.

And these people need to step up to the plate. Virginia needs to step up to the plate, Maryland needs to step up to the plate, and the District with that huge surplus now needs to step up to the plate. You sure as heck ain't going to get it out of my folks. And the improvements can be made.

So no other system in the country has the kind of resources into it. And if you to divide, don't divide by three, let's divide by four and have everybody step up to pay for it.

So I'm not making—I'm not here to make up for bad management. I'm not here to make up for a poor safety record. I'm not here to make up for a lack of action. And you, who was it, was it the new general manager, when I saw the liability, you mentioned the liability for pension and unfunded benefits in a multibillion area. Isn't that true?

Mr. EVANS. \$2.5 billion.

Mr. MICA. Yeah, that's huge, that's huge. That also needs to be addressed and it doesn't need to be bailed out by the Federal taxpayer.

So I've spoken my piece. If you know me, I do that, and then I act, and I will act to make certain that we get this in order.

I wish you well, Mr. General Manager. We'll work with you, we'll give you all the tools. You have money available. You need to get in there, fire people, I think you're doing some of that, and get that place in order.

With that, I yield to the ranking member.

Ms. DUCKWORTH. Thank you, Mr. Chairman. And I, again, want to thank you for holding this very important hearing. I'd like to yield the remainder of my questioning time to the gentleman from Virginia, Mr. Connolly.

Mr. CONNOLLY. I thank my friend. And I thank Mr. Mica for his passion. But as that passion cools he has asserted Virginia has to step up to the plate. And I would remind my friend he doesn't want a burden on his people, he said. Well, I don't want a burden on mine. And in Virginia we pay the subsidy, my local taxpayers. So when you say a bailout, my constituents hear something quite different. And I hope you will keep that in mind. As you care about your people, Mr. Beyer, Mrs. Comstock, and I care about ours, because we foot the bills in Virginia, not the State. And we're quite sensitive to the fact that we already pay high subsidies and we already have one of the highest farebox recovery rates in the country because we don't have a dedicated source of revenue and the Federal Government does not provide operating subsidies.

Mr. EVANS. Not a penny.

Mr. CONNOLLY. Not one penny. It is the only compact member that doesn't provide a penny.

Do you want me to yield, Mr. Chairman?

Mr. MICA. Just two things. I'll put in the percentage that is paid for capital. And then I think—

Mr. CONNOLLY. Capital is different than operating.

Mr. MICA. Well, most of their problems are capital.

Mr. CONNOLLY. No, clearly their problems are operational, Mr. Chairman.

Mr. MICA. Yeah. And, again, you can see what is put in. Operational, there is about 2 percent from the District. And I will give

you the fact that some other jurisdictions we found have as much as 6 percent, but they take certain money and put it into operations that we've allowed. And we've done that also in times of financial distress.

Mr. CONNOLLY. Reclaiming my time. Thank you, Mr. Chairman.

I would just say, you know, where you stand is where you sit. Where my constituents stand is that the Federal Government gets a free ride every day on Metro, because it doesn't pay operating subsidies. And as Mr. Evans indicated, that costs our jurisdictions in Virginia about \$300 million a year. And You can make all the hay you want out of the fact that the Federal Government provides 150 million in operating capital, and that did not come without strings. That had to be matched dollar for dollar by the three jurisdictions over and above their operating subsidies and we had to give up voting seats on the governing board of Metro.

And by the way, the Federal representatives are not limited to only capital issues when they vote. They get a free vote on the operating side of the house and they don't pay for it. So it's a matter of perspective.

Having said that, I certainly associate myself with the remarks, your remarks, Mr. Chairman, about past management and about operating difficulties and holding people accountable. And I am deeply concerned that given the depth of the problems, that people, frankly, examples are going to have to be made out of some people, and I don't just mean the senior management. And I think the chairman and I share that view. It's gotten to that point that if we're going to reassure public confidence we have to hold people accountable at every layer of the organization, because that is one of the crises we face, public confidence, for good reason.

Mr. Hart, in your recommendations inter alia, you recommended that the safety oversight be done by the FRA, not the FTA. Is that correct?

Mr. HART. That's correct.

Mr. CONNOLLY. Why did you arrive at that conclusion?

Mr. HART. We were looking for an immediate solution. The FTA can eventually do the kinds of things the FRA does now. For example, the FRA has rules to have people to inspect to see whether the rules are being met, and they have people to enforce if the rules are not being met. The FTA can have that eventually but doesn't have it today. That's what we're looking for as an immediate solution, an immediate interim solution to respond to the reality.

Mr. CONNOLLY. Ms. Flowers, you're not the director of the FTA, you're a senior advisor?

Ms. FLOWERS. I'm currently the lead at FTA.

Mr. CONNOLLY. The lead.

Ms. FLOWERS. Yes.

Mr. CONNOLLY. And you came with Secretary Foxx from Charlotte?

Ms. FLOWERS. I came after Secretary Foxx.

Mr. CONNOLLY. After. So do you have the capability that the NTSB recommended?

Ms. FLOWERS. We feel that we do have the capability. We agree with NTSB that action was needed to improve oversight of WMATA and that—

Mr. CONNOLLY. Ms. Flowers, I'm running out of time. So forgive me. I'm not trying to be rude. But we had deaths. We had accidents. We had people injured. Mr. Hart's NTSB said, Look, no fooling around. Safety is number one. We need the FRA and its resources and capabilities because the FTA doesn't have it right now.

Ms. FLOWERS. You gave us statutory authority and oversight of public transportation. And you also, in the FAST Act, strengthen our authority—

Mr. CONNOLLY. Ms. Flowers, I'm very well aware of what we did in the statute. I'm talking about capability today. And that's what the NTSB—that's what it took cognizance of which is why it didn't recommend that your agency have safety oversight. And yet, the Secretary decided to overrule or ignore that recommendation.

Ms. FLOWERS. Sir, we have, on our staff, regulatory experience from FRA and FAA. Our head of—

Mr. CONNOLLY. Regulatory?

Ms. FLOWERS. Yes. From regulatory agencies who have safety experience at FAA and FRA.

Mr. CONNOLLY. What's that got to do with whether you've got the ability to hone in on, you know, cable covers that could arc? Who cares about regulatory authority?

Ms. FLOWERS. We have just completed a safety blitz of our track inspection on WMATA, and we've done verification—

Mr. CONNOLLY. Oh, you did?

Ms. FLOWERS. Yes.

Mr. CONNOLLY. So on the day, Mr. Wiedefeld, what was the day we shut down for the whole 29 hours?

Ms. FLOWERS. March 16.

Mr. WIEDEFELD. March 16.

Mr. CONNOLLY. March 16. The day before the holy day. So—St. Patrick's Day. Did you have people in Metro inspecting the cables along with Metro?

Ms. FLOWERS. When we did our safety management inspection, we did identify issues with—

Mr. CONNOLLY. No, ma'am. My question—that's not my question. On the 16th of March, for that 29-hour period, since you've got the responsibility, God knoweth why, since it should have been to FRA, but Secretary Foxx decided to ignore or overrule that recommendation, were you in the tunnels inspecting these cables that could arc, smoke and cause deaths and injury?

Ms. FLOWERS. We were not in—

Mr. CONNOLLY. You were not in the—

Ms. FLOWERS. But—

Mr. CONNOLLY. So one of the most important safety issues we're facing in an unprecedented move, shutting down the whole system, hard to find in any other transit system in America, the FTA, which claimed authority, overruling the NTSB by the Secretary of Transportation, you were not there?

Ms. FLOWERS. That is correct, sir.

Mr. CONNOLLY. And we're supposed to have confidence in your ability, while you're lecturing Maryland, D.C., and Virginia to get their act together in the talk, you're nowhere to be seen on the day in question when we're trying to deal with a major, imminent, potentially life-threatening safety issue?

Ms. FLOWERS. Would you like to know what we did?

Mr. CONNOLLY. Well, I'd like to know where you were on the 16th before you tell me what you did.

Ms. FLOWERS. Okay. On March 16, we were working with WMATA over the telephone, talking to them about what they were doing. We did oversight of their inspection the night before, we talked to them. And we used the information to verify what they were doing. And we also are now conducting our own blitz of the system, of their tracks.

Mr. CONNOLLY. I'm sure it gave great comfort to Metro that you were verifying over the phone what they were doing.

My time has expired. Thank you for your indulgence, Mr. Chairman.

Mr. MICA. Thank you. Mr. Meadows yields me 15 seconds just to say that, Mr. Connolly, they had between a half a billion and three-quarters of a billion dollars sitting in the bank to make the repairs that Ms. Flowers or FTA and Mr. Hart said were necessary last year after somebody died and we told them to do something about it and held a hearing. So it's not a question of money. It's a question of management and somebody doing something. And let me yield back to Mr. Meadows.

Mr. MEADOWS. Thank you, Mr. Chairman. Thank each of you. We've got two different issues here. One is a safety and a deferred maintenance issue. The other is a management issue. And so I want to try to address both of those. Mr. Hart, I think we have some pictures here that maybe we can put up. If you can explain to the committee the pictures, I guess, of that particular picture with—I guess they're jumper cables. Is this where the issue is? Now, I need the picture of the jumper cables, please, sir. Right there on the—right there in front of you. That one.

Mr. HART. Yes. These are the cables that provide propulsion power to the third rail. So this is—we are talking about serious electricity here. What we saw was that there is a fiberglass sleeve around there that needs a sealing sleeve on the fiberglass boot. Let me call it a boot. The fiberglass boot needs a sealing sleeve to keep stuff from coming inside where the connection is.

Mr. MEADOWS. So basically, an insulator to keep it from arcing?

Mr. HART. Well, it's an insulator to keep contamination from getting into the connection so that—because the contamination can form an arcing path to cause short circuits.

Mr. MEADOWS. All right. So is this the only place where you can have an electrical problem that would create smoke in the tunnel?

Mr. HART. There are probably a number of other places. The insulators, for example, if they get contamination down in the insulators, then the electricity can arc from the third rail down to the ground. So there are several places where it can happen. What we saw in L'Enfant Plaza was specifically from the cables.

Mr. MEADOWS. All right. So if we're going to inspect this and if we're really looking—and I see the general manager is wanting to step in. Go ahead.

Mr. WIEDEFELD. Just to clarify, that is one potential source of arcing. The cables also, if they are in the wrong direction, if they are laying on the ground, that is a—it's built on a floating slab, the rail is, which means it can move. And if that cable is laying on con-

crete and over time that rubs, basically it can fray it and open it that way. So there's a series of things that can happen.

Mr. MEADOWS. Well, I guess, here's my concern is from what I'm coming to understand, that the jumper cables are not the only source of potential problem. And yet it appears that when we had the inspection, it was a jumper cable-only checklist. Who made that decision?

Mr. WIEDEFELD. We made that decision because the issue was at McPherson, it was a jumper cable issue. And that's where you do get the arcing from. You're going to get it from, in effect, some sort of cable situation where, in effect, you have a third rail that's steel—

Mr. MEADOWS. So, Mr. Hart, would you agree that that is adequate enough that if we put in we're only looking for jumper cables that that's satisfactory from a safety standpoint?

Mr. HART. Our recommendation addressed all cables. Jumper cables, power cables. All cables, not just jumper cables.

Mr. MEADOWS. All right. So why would we only look at jumper cables?

Mr. WIEDEFELD. I think it's a terminology.

Mr. MEADOWS. Because that's—well, no, it says right here, and, Mr. Chairman, I ask that we submit this for the record.

Mr. MICA. Without objection, so ordered.

Mr. MEADOWS. Because it says "Only jumper cables shall be inspected," exclamation point. So, like, don't look at anything else other than jumper cables. And if you're saying that there are other sources, why would we only look at the jumper cables?

Mr. WIEDEFELD. Because I think, again, I think it's a terminology issue. Those what you see there with the big orange boots are what people generally are calling jumper cables. But if you recall, when we came out the next day and we showed the one cable that was frayed, that wouldn't have been termed a jumper cable. That's where you have two pieces of steel that there's a space of an inch, in effect, so that you can—so with temperature changes it can move. And that is a much smaller cable that goes back. Didn't have the big orange boots. So we weren't just looking at the orange boot cables. We were looking at any cable—

Mr. MEADOWS. So what you're saying is the language on here only looking at jumper cables really didn't mean to only look at jumper cables. It meant to look at anything electrical. So your sworn testimony here today is they looked at all electrical—

Mr. WIEDEFELD. They looked at electrical cables that closed any gap between third rail.

Mr. MEADOWS. All right. So let me go on a little bit further.

Mr. EVANS, your solution, and I've read a few of the articles, and I hear your testimony today. So let me make sure I understand. You need another \$1.2 billion in operating revenue. Is that correct? Is that your testimony?

Mr. EVANS. We need—

Mr. MEADOWS. 300,000 times 4, \$1.2 billion.

Mr. EVANS. Right now we have \$900 million. We need another \$300 million from the Federal Government for \$1.2 billion in operating on the one side. And—

Mr. MEADOWS. So you're only saying an increase of \$300 million—

Mr. EVANS. Correct.

Mr. MEADOWS. —but you want the Federal Government to pay the \$300 million?

Mr. EVANS. Yes.

Mr. MEADOWS. So why, if you're dividing the others by three or four, why would it only come from the Federal Government? Is that budget autonomy?

Mr. EVANS. Right now, each jurisdiction pays approximately \$300 million.

Mr. MEADOWS. Right.

Mr. EVANS. The Federal Government is a full partner. A fourth partner that pays zero.

Mr. MEADOWS. Well, according to your testimony, we actually, I guess, when we originally put in this system, we were more than a full partner. We paid two-thirds of the capital improvements originally. Is that correct?

Mr. EVANS. Yes, you did. That's right. The Federal Government paid two-thirds of the cost to build this system. On the operating side, though, they do not contribute and had never contributed.

Mr. MEADOWS. All right. And so you're saying it needs another \$18 billion, with a B, in terms of—

Mr. EVANS. \$18 billion, yes. Capital money.

Mr. MEADOWS. So let me make sure I understand this. Your plan to fix this system is to give WMATA \$18 billion and close down the system for 6 months in order to have a good system. Is that the best—

Mr. EVANS. No. That's not my plan.

Mr. MEADOWS. Well, I mean, it's \$18 billion. And I guess you were quoted as saying: Close it down for 6 months, which when I heard that, I could think of traffic jams for 6 months, and it didn't sit well with me.

Mr. EVANS. Congressman, let me just say this: If you want me to come up here and give you good news, I'll be glad to do that. But if you want to hear what we really need to do, that's the only reason I'm here. And if you give me 30 seconds, I'll just tell you why I'm here.

Mr. MEADOWS. Okay. Where's the \$18 billion going to be—you know, if you want to get testy about it, Mr. Evans, let me just say, I've got the numbers. And if you're looking at increasing the operating revenue the way that you're talking about, you become the most expensive operating system, more expensive than Chicago, more expensive than New York, more expensive than Pennsylvania. So why would you have the highest operating cost out there? I mean, what would justify that? So if you want to look at numbers, let's look at them.

Mr. EVANS. We're the second largest transit system in America. So that justifies—

Mr. MEADOWS. Well, New York is higher. Chicago is higher.

Mr. EVANS. And if you have the opportunity to travel the world as I have, you go to Beijing, Shanghai, Paris, London, Moscow, and see a world-class system. This system has become an embarrass-

ment in the Nation's capital. And we are all in this together, and——

Mr. MEADOWS. Those are all Communist countries, Mr. Evans.

Mr. EVANS. Paris, London, Communist countries?

Mr. MEADOWS. You said Beijing, Shanghai, and Moscow.

Mr. EVANS. I said Beijing, Shanghai, Moscow, Paris, and London. They are capital cities. And if we want a world-class system like they have, the federal governments in those countries pay for all of the system. All I'm asking from you is \$300 million, which is your fair share, given the fact that we transport 50 percent of your workforce every day. Do you want them to be safe? Do you want this to be reliable? Or do you just want to leave here like we did in 2005 and do nothing? And if we do that, next time something happens, I'm blaming it on you guys. Because we need your help.

Mr. MEADOWS. Sir, you're the one that's been on the board. So how can you blame us? You're the ones making the decisions.

Mr. EVANS. I've been on the board a year. When I left this place 15 years ago——

Mr. MEADOWS. Since this has all happened.

Mr. EVANS. It is not operating well now. And we need the resources in addition to the wherewithal.

Mr. MEADOWS. When can you get this committee a full breakdown of how that money will be spent?

I yield back.

Mr. EVANS. Within a week. But you will never—let me just say this: You're never going to have a better chance. You have a chairman and myself who has done this for years. You have a general manager who is as capable as anybody has ever been. If we leave here today and do nothing, and, Mr. Chairman, when you're saying you're not going to give us a dime, really? Is that what you're saying? We need resources for this system. This is your system. This is my system. You're going to put your kids, your parents, on this system that is a system like it is today? Really? Give me a break. We really have to step up. I have reports here from 2010, 2011, 2005, 2005, where we have done nothing. We cannot leave here and do nothing again.

Mr. MICA. I thank the gentleman and I will put in the record the balances that have been unexpended which have been verified by you all that are available. It was a half a billion almost last year. 485,783 as of 2 weeks ago. So the money is there. The management's lacking.

Mr. Connolly, you're recognized.

Mr. CONNOLLY. Thank you. I'm going to yield to my good friend, Eleanor Holmes Norton, while reserving my 5 minutes. Thank you.

Ms. NORTON. I thank my friend. As to who needs Metro and who ought to pony up, just let me say that when Metro shuts down, the Federal Government shuts down. And we've had evidence of that through the gazoo recently. So just try getting along without Metro, I'll say to my colleagues, if you want a Federal Government at all.

I just want to clarify what Mr. Evans says, because it was perfectly true. The pension liability was pre-home rule liability. So it wasn't the District of Columbia's liability at all. It's liability because of the Federal Government didn't give us control over our own local jurisdiction, and, therefore, it was due then and they had

to pay it. As for—the Federal Government gave D.C. not one thin dime. It does—did agree to pay for State functions, because the District is the only city that has any responsibility for State functions. So just clarifying, I agree with what Mr. Evans has said.

Now, look, I want to focus on the fact that for the first time in its history, as I understand it, this system, Metro, is doing short-term borrowing in order to get operating funds. Isn't that true, Mr. Wiedefeld?

Mr. WIEDEFELD. Yes, it is.

Ms. NORTON. And you have a rollover of this borrowing of about a half a billion dollars at this point. Isn't that true?

Mr. WIEDEFELD. In that range, yes.

Ms. NORTON. So I want everybody to understand what this means. You're borrowing just to keep the system running. And we've got to face this fast. Now, on top of that, Ms. Flowers, WMATA was put under handwritten drawdown restrictions. That is to say, to get any of the Federal money due you, you've got to turn in by hand the voucher, in effect. Now, look, I don't have any problems with that because of what FTA found in terms of controls. And so, I understand it, in the beginning, when I've been having written correspondence with FTA because it looks like we are through this process until we get to validation.

So it looks like you have done your due diligence. But in the process, and this is why I'm talking about going forward, in the process, you have so delayed WMATA getting funds due it that it has had to go and do short-term borrowing, from bad to worse. That is why I have asked for another form of monitoring. I don't care what it is, just so it is streamlined and doesn't leave WMATA waiting 10 or more days to get money that the Congress has already allocated to it.

Have we got a monitoring system that will allow them to do some form of technical drawdown, rather than the hand drawdown given the fact that you've gotten through all of the controls, except waiting for it to be validated? I'm not asking for no monitoring. Do you understand? I'm just asking that you not throw this system deeper into debt than they already are, because if they're borrowing just to keep the operation going, that looks like what we usually see when somebody's about to go out of business.

Mr. WIEDEFELD. If I could just clarify, it's on the capital side, not the operating side. It's on capital funds is what we're talking about.

Ms. NORTON. My understanding was that for the first time you had borrowed—I mean, you're always borrowing—I'm talking about short-term funding, Mr. Wiedefeld.

Mr. WIEDEFELD. No, it is. It's short-term funding, but it's for the capital program, because we don't have the electronic—what's called ECHO, the electronic ability to bring down the dollars.

Ms. NORTON. But you've not done short-term borrowing before?

Mr. WIEDEFELD. Not that I'm—

Ms. NORTON. As far as I'm told, never in the history. So whatever it goes to, they're rolling it over. They can't pay it. So I'm trying, for short term, a way to get to partial solution, short term, here's the money the Federal Government says we owe you. How close are we getting to a streamlined approach, Ms. Flowers?

Ms. FLOWERS. We've been working close with Mr. Wiedefeld to go through a validation process. And I think we are getting closer.

Ms. NORTON. When do you think—I understand this is costing them money, interest. So I think it's a perfectly valid question to say give us a date since, they've done everything you said do except have it validated when the—when they can get their money in the old fashion—or the new fashion way. Excuse me. You know, when will that be, Ms. Flowers? And when can you get me a date on that?

Ms. FLOWERS. I'm going to defer to Mr. Welbes, who's been working with WMATA and our region to work on this restricted draw-down process.

Mr. WELBES. Congresswoman Norton, over the last 2 years, we paid \$845 million to Metro. And Metro brings us their request for payment. As long as they have—

Ms. NORTON. Sir, I asked you a very specific question. My time is running out. What—when will they get off of this short-term—I'm sorry, this—these restrictions that are putting it more heavily into debt?

Mr. WELBES. So we're doing testing and validation. We just agreed in the last month to the testing and validation plan. And in the coming months, we'll make sure that Metro's engaged, doing the financial activities that we requested in our oversight review. But during 2016, it is possible, if Metro fulfills the requirements, that they could move off of restricted drawdown, but it will be up to Metro.

Ms. NORTON. I'm going to ask you to submit to the chairman within 30 days a date where you—proposed date when you think that WMATA will no longer be put on these kinds of restrictions that keeps it from getting money owed it.

I want only to say to my good friend, Mr. Evans, this notion about, which I would certainly agree with, to create a dedicated funding source, it's become a mantra. I'm asking you, Metro, somebody, put a proposal on the table. Nobody is going to do anything about dedicated funding until somebody just puts something on the table for others to react to. I think that would move the ball along.

And I thank you very much, Mr. Chairman.

Mr. MICA. I thank the gentlelady. We've exhausted the Republicans on our side. So I'll yield to Ms. Comstock, and then we'll go to Mr. Connolly.

Mr. CONNOLLY. Mr. Chairman, I didn't know it was that easy to exhaust the Republicans.

Mrs. COMSTOCK. I'm still here, Jerry.

Mr. MICA. You got this one, even with all my Italian energy. Go ahead.

Mrs. COMSTOCK. Thank you, Mr. Chairman. After seeing a little bit of the back and forth here, one of the things I'd like to recommend to all of my colleagues here is to focus on our new general manager here, who has really set out some good things that we all can agree on. So we can—there'll be time later for some of the food fights and some of the things we've seen here. But I think where we need to focus right now is on what Mr. Wiedefeld has focused on. And I think a lot of our colleagues, on a bipartisan basis, agree on that. So I would encourage everybody as we go forward on this,

let's work on all the things we agree on first before we start any of these fights.

And in that effort, I wanted to ask Mr. Wiedefeld on—and I appreciate what Mr. Evans said about you as capable as anyone who has ever been here. And you certainly demonstrated that from the beginning as we have been talking about this. You cited that over 10 years, there have been no significant reductions in force, resulting in redundant positions among back office staff that should be abolished. What can we do to immediately abolish some of those? Because some of those huge costs that we're going to have on pensions are going to be coming from some of these redundant positions that are unnecessary.

So I appreciate that you're trying to, you know, minimize the problem here. What do you need from us, if anything from us, that we can help you immediately remove those redundant positions, put people where they need to be, and fire the people, and I appreciate my colleague, Mr. Connolly, talked about firing. When you fire somebody for direct wrongdoing, you know, there's some savings in our pension costs right there. Because I think the taxpayers thinking that those people who caused all these problems and for 10 years didn't do anything, and have ignored all of these things over and over, those people need to be fired and we need to be taking the action that helps you, you know, change this system, the cultural change, I think you are very committed to, that we see in your positive action here.

And I would very much like to work with you and my colleagues on that type of positive action as quickly as possible if you can identify some of those ways to make it quicker.

Mr. WIEDEFELD. I have already done—you know, started moving that direction. I have done some personnel changes. I've reorganized the agency. And I've made it very clear to everyone, particularly the all at-will employees that basically this is the way we operate. And if you don't understand that, then it is not a good fit for either one of us. So that is progressing. I'm not going to get into individual personnel issues here. But that is progressing.

Mrs. COMSTOCK. And I would mention, I know in the audit, the HR department seemed to be one of the departments that isn't working very well. And then, again, basic things like the maintenance department, and I quote from the report, they didn't have simple things like repair kits with necessary parts for common repairs, like things that you have—the maintenance office, whoever's been running the maintenance office that didn't go and put those repair kits, that they have to be told build repair kits with necessary parts for common repairs, you know, any auto body shop knows that, and that the person who is running this—

So let's—I think it's very helpful if we see people like that moving on and putting capable people to do those kind of basic repairs, HR people who understand how to move these people along and get them—because the audit really shows the problem is execution. We all have identified the problems, and now you've been brought in to execute. And you set out some really good ideas on executing. But if you're not able to move the deadwood out, then that execution is going to be a real problem.

So let us help you move that deadwood along. I think you've seen today, bipartisan agreement on the faster you can get that deadwood out, we're going to be able to help you a lot more. And—but if you have a little—anything more.

Mr. WIEDEFELD. No, I totally agree. What I'm telling you is I'm moving in that same direction right now.

Mrs. COMSTOCK. Thank you. And since I have a little bit of time left, then, on the HR front, have there been any changes at this time in the human resources department?

Mr. WIEDEFELD. Actually, yes, in terms of, one of the issues that I had is a lot of these different parts of the agency were buried under operations, for instance. So I've pulled that all apart and I have created a—basically an internal support group that has auditing, procurement, which is the other issue tied to the maintenance issue, HR, and labor, and have that under a separate group that basically is under a new leadership right now. And they're digging into all those issues, both on what we learned from the consultant and what we bring to the table.

Mrs. COMSTOCK. Okay. Because I know we had asked some questions, and I don't want to—you know, I appreciate some of the people we've been waiting to get responses from, I think, are in the HR area. We've been asked, you know, basic information like absentee reports, because some of the concern that we heard were a lot of absentee, and as a result, then people get a lot of overtime. That overtime is added to their pension. So if you have this whole little system that can all work, Hey, I'll take off today. You can take off next week. We both get overtime and we both get a bigger pension and get to retire earlier, that's not a good game that we need to be playing. And I think a lot of those problems can be worked out there if we have a really good HR department. And I—since I haven't gotten the answers on that, I'm assuming that's a—continues to be a problem. So thank you for addressing that.

Mr. MEADOWS. [Presiding.] I thank the gentlewoman for her insightful questions, and certainly for the answers. The chair recognizes the gentleman from Virginia, the ranking member of the Subcommittee on Government Operations, Mr. Connolly.

Mr. CONNOLLY. I thank the chair. Mr. Evans, Chairman Mica talked about \$783 million as if you've just—you're sitting around watching soap operas and eating bon bons, and allowing \$783 million to just accumulate. And you got plenty of money. Isn't there a difference between, say, obligated funds and expended funds?

Mr. EVANS. Yes, there is, Congressman. And what the chairman was referring to, I don't know if he knew that, was obligated funds. They're already obligated. They're not anything new that we can use for other things.

Mr. CONNOLLY. How much of the 783, either you or Mr. Wiedefeld, is, for example, for the purchase and delivery and ultimate expenditure for new 7000 Series cars from Kawasaki?

Mr. WIEDEFELD. I don't have those dollar figures off the top of my head. But the point that you're making is a lot of those are tied to very big purchases, whether it's bus purchase, 7,000 series. And some of the issues that we've had with the cash flow of that is when the tsunami hit Japan, that impacted Kawasaki, who was the provider of that. And that slowed that up.

In a major bus purchase that we had there was—a company went out of business. So that slowed those dollars up. So that—and I think FTA can attest to that. That is—I think we're in the range of what other transit—

Mr. CONNOLLY. I just would urge you quickly to help dispel this myth of you're sitting on a lot of capital you don't know what to do with. It is actually good and prudent management not to pay your bills until the product or service has been delivered, and has met your specifications with respect to quality, especially given the fact that the reason we're purchasing new rail cars is, among other reasons, safety. The new cars aren't going to pancake like Series 1000 cars, which affected lives in the first fatal accident. And so I just—I think we have to really get the data out there, you know, so that we dispel this myth that you're sitting on a mountain of capital. Why should we give you more?

Mr. EVANS. Mr. Connolly, that's so important too. Because this is obligated money. We need new capital money. I mentioned the Rosslyn bottleneck. Right now we can run 23—20 trains in an hour through the Rosslyn bottleneck. The capacity is going to have to be 40 trains an hour if we're going to make this a reliable system. We are going to have to build a new tunnel. And it's going to cost billions of dollars to do it. Otherwise, we are going to have a system that is not reliable and it's going to take forever to get anywhere. This is just one example of many that we need these capital dollars for.

Mr. CONNOLLY. Okay. And by the way, another thing, Mr. Wiedefeld, when you're getting back to us on explaining the 783, it would also be useful to know how we compare to other transit systems that receive Federal grants in terms of spend-down rate. Because I think we're in the same ballpark. I don't think we're particularly different. And that might come as news obviously to some of my colleagues.

At this point, I'm going to yield to my friend, Mr. Delaney from Maryland, the balance of my time.

Mr. DELANEY. Thank you. So the scale of this failure at Metro is almost unimaginable. And it's become a national embarrassment. And I agree with my colleagues that it's a management problem. And I agree with Mr. Evans that the system's been underinvested in and it continues to be underinvested in. But what we haven't talked at all about is the board and the governing system. Because you can only blame management for so long. Ultimately a board, a fiduciary board, is responsible. And this enterprise has had a fiduciary board for a long time. If this was any other enterprise other than Metro, the board would have been dismissed, discharged completely and new boards would have been appointed.

Mr. Evans, do you believe that the board of Metro, if you had to certify, like public companies have to do with, for example, their audit committee chair, that the board members have deep experience in operations and financial management of sophisticated transit systems, or have tremendous experience in creating systems of accountability and metrics for their management teams? Do you feel like you could certify that the individuals who sit on this board, and I look at some of the board committees, they have a safety committee. Obviously, they completely failed. There's a fi-

nance committee. Complete failure. Customer service committee. Complete failure. There's a real estate committee. Maybe they did their job. I can't really speak to that.

But it just seems to me that, at some point, we have to ask hard questions about who's actually on the board of this organization? What is their experience? Are they just people who, you know, get these positions because of political paybacks and they know nothing about transit or transportation or operations? I mean, why aren't we getting the absolute best-proven executives in the Washington region, people who run some of the most successful enterprises. You know, not small little enterprises, but big enterprises.

Do we have a governance problem that goes to the board? Do the people on the board know what they're supposed to do?

And are they the kind of people where you would put up their resumes and say, There's no better person in the country for, you know, who's chairing my finance committee. There's no better person in the country chairing my customer service committee. There's no better person in the country chairing my safety committee. Is that the kind of board that is governing this? Or is that really the problem?

Mr. EVANS. No, that is not the type of board that is governing this. So let me address this quickly. We have a 16-member board which is way too big. Organization should have 16 members like the Kennedy Center. People raise money, but they don't run an organization. When I was on last time we had 12, it was too big. And then they added four Federal representatives couple years ago. It is unwieldy, to say the least.

Mr. DELANEY. But your average corporate board is probably a dozen board members?

Mr. EVANS. That's just too many. And secondly, Congressman, your point is well taken. No. People don't come there with enormous experience. Some do. We have one or two people who have worked in the transit industry for a while. But most people don't. And they're there for a whole variety of reasons. Sometimes they're there because nobody else would come, believe it or not. And so that's what you have as a board.

Secondly, it's never been clear what the board does. In the past, this committee has criticized the board for being too involved in the general manager's business. Then there was an opportunity the board was not at all involved in—

Mr. DELANEY. But that's—sorry to interrupt, but that's why you need a good board.

Mr. EVANS. Correct.

Mr. DELANEY. Right? Because a good board knows what their job is. Right? They look at the CEO, or the manager of the enterprise. And they say, These are your goals. If you don't reach them, we're going to make a change. Right? And they have committees that ask the right questions and make sure things are happening. I mean, it seems to me as part of whatever has to be done to fix this system, which will involve more capital, there has to be a serious conversation about completely reconstituting this board and making sure these are not just political appointees who may have very good community relations, and I'm not trying to underestimate that. But actually getting some people sitting around the table who know

what they're doing. Right? Because we can't be sitting here looking at pictures of jumper cables, right, in Oversight. I mean, there has to be a management structure and a governing structure that works. And this is—you know, we talk about management, we talk about underinvestment, but, I mean, one of the biggest embarrassments, in my opinion, you could have in this town is to have been on this board of this thing for the last 10 years because you've utterly failed.

Mr. EVANS. And let me just point out to you, I have with me one of my many reports. January 7, 2011, Transforming Governance of the Washington Metropolitan Area Transit Authority. This is a report on how we should completely redo the board, 2011, 5 years ago, and nothing happened. And so your point is absolutely well-taken. But the problem is you have four jurisdictions. Nobody's willing to give up anything. And so anytime we bring up this idea of changing the board, everybody backs away from it. So you're right. We need to do something here. Because this is—

Mr. DELANEY. So whatever this Congress does to address some of these problems, I think we should be putting on the table ensuring that real board members, who—again, under Sarbanes-Oxley, if you run a public company, and you're the chair of the audit committee, the board has to certify that the person is an expert at audit committee-related matters for whatever that company does. And we need that kind of certification for these board members so we can get real governance of this—

Mr. EVANS. Mr. Congressman, I'll say this: Can anybody up here name the four Federal board members?

Mr. DELANEY. Well, I just looked them up. So I—and I looked at their backgrounds. And admirable people who have done good things in the community, but I would not—if I to certify, the question I asked you, I could not certify that any of these people are experts, being a steward and a fiduciary of the Federal Government's money, the State of Virginia's money, the State of Maryland's money and the money of the District of Columbia.

Mr. CONNOLLY. Reclaiming my time, Mr. Chairman, which has long ago expired, the gentleman from Maryland makes a very good point. But I would caution my colleagues that Federal law cannot dictate who is on the board of Metro, nor can Federal law tell the paying jurisdictions who they get to appoint to Metro. If Federal law wants to do that, Federal law has to pay the bills. And that was the point I made earlier. We are AWOL. We don't pay an operating subsidy. And, therefore, we must tread lightly in telling Virginia, Maryland, and D.C. who and what will serve on the board. And that is something we're going to have to grapple with. Because this is not a Federal entity.

Thank you, Mr. Chairman.

Mr. MEADOWS. I thank the gentleman. And the chair now recognizes the gentleman from Virginia, Mr. Beyer, for 5 minutes.

Mr. BEYER. Thank you, Mr. Chairman. Mr. Wiedefeld, there's a recent story in the Post summarizing how the Blue Line riders have felt for years about the way they've been treated compared to riders in the rest of the system. And obviously, my friend, Chairman Evans' comments about closing the Blue Line for 6 months perhaps got even people more excited and upset. But they do have

legitimate complaints. And a lot of it has to do with the capacity of the Rosslyn tunnel, a major choke point. But what can we do now before we get all this additional infrastructure money to help those Blue Line riders?

Mr. WIEDEFELD. I am taking a look at that to see if there's other ways we could provide that service, you know, and how we're managing the three lines there. So it's a technical exercise, because anytime you do that—so I will be coming out in the near future with that.

Mr. BEYER. All right. Thank you. Chairman Evans, you made a very strong case for a Federal operating subsidy, the \$300 million, to match what Maryland, D.C., and Virginia put in right now. But you also mentioned the search for a regional funding source, \$1 billion a year. What did you have in mind? Or do you have any models out there?

Mr. EVANS. Yes. What we need to do is in the region, and other States have dedicating funding sources for their transportation systems. They use a sales tax. Some use a gas tax, a combination of the two, a property tax. But no other transit system is operating in a multi-jurisdictional area. That, therein, is the problem. So Virginia, Maryland, and D.C. have to agree on what kind of a funding source, tax, fee, whatever you want to call it. And is it gas? Is it sales? Is it income? Is it property? Or a combination of those? And we have just not been able to do it, which is why suggested, I was just reading history, the Tennessee Valley Authority, where in the Roosevelt era, the Federal Government superimposed on Tennessee, Arkansas, and everybody this taxing district used to build the dams for the Tennessee River. I haven't done anything beyond that. But I'm frustrated with the local jurisdictions' inability to deal with this. And so I go back to the Federal Government. Maybe they can help us out. My whole point is this: We need help at Metro. And if we don't get it, if we don't get it, we are going to be in serious trouble beyond where we are now.

Mr. BEYER. Thanks. General Manager Wiedefeld, The Washingtonian ran this amazing story back in December about, quote, "The Infuriating History of How Metro Got So Bad." And a lot of the story focused on WMATA's real operations control center. And basically, air traffic control system for the whole system. And they talked about an environment where training materials were out of date, factually incorrect. Place that was hostile to new hires. Place where control center workers routinely worked 12-hour days in order to get the overtime. And the NTSB preliminary report was very critical of the way the control center responded at that smoke incident back in January 2015. So all these things wrap around culture. What can you tell us to give us some hope that you're making changes within the control center, and a culture that's responsive and performs well, executes well?

Mr. WIEDEFELD. Right. There's two aspects to it. One is, I mentioned I did a reorganization. So I changed how that reporting relationship goes so that I can get more focus on that part of the operation. As Ms. Flowers mentions, the FTA's there on a regular basis making sure that they're playing by all the rules and, you know, following all the procedures they're supposed to do. The larger issue that you talk about, it's not confined just to the rail operation

center, which is this cultural issue that was brought up in *The Washingtonian Magazine*. What I have found is a strong disconnect between management and the frontline employees that has, you know, evolved over years where people feel, in effect, disenfranchised. They don't feel a part of the business. They don't feel the pride in the business. They don't feel the commitment in it.

And, so, that's what I am focusing on to get the frontline people and the managers to understand that if they do not tap into that resource, you know, their job is to bring that resource up, not push it down. And if they can't do that, then they—it gets back to Congresswoman Comstock's issue. If they cannot do that, then they cannot work here. Because that is what we need to get this organization in the direction we need to get it in.

Mr. BEYER. Great. Thank you. Thank you and good luck.

Ms. Flowers, in Mr. Hart's NTSB report, you know, we—obviously, NTSB had recommended the railways take over the safety aspect. Secretary Foxx gave it back to FTA. I'm quoting. He says, the FTA—this is from NTSB. "The FTA has very limited ability to oversee the WMATA effectively. It has no prior experience in direct safety, oversight, or as an SSOA. Has limited staff to carry out the functions. Doesn't have the authority to levy civil or individual penalties," et cetera. How do you respond to all these, sort of documented criticisms of why you're not the right agency to do these safety oversights?

Ms. FLOWERS. Well, first of all, we're on the job and doing the job. And, you know, we do have enforcement power. Most importantly, we have the ability to direct WMATA to take action, corrective action, when there are safety infractions. We also have the ability now to withhold funds, as much as 5 percent to 25 percent of the funds, to compel them to take corrective action.

On the experience side, we feel we have the technical competence. We have put together an organization that has experience from FAA and FRA. And we have the resources. Secretary Foxx took a one DOT approach. He leveraged resources from across the Department to augment the oversight effort. We have people working with us from FRA, NHTSA, Motor Carriers, and the Office of the Secretary.

I know that NTSB is concerned about whether we can sustain this. But we do have additional budgetary authority to augment our safety operations. And we think that the response was the appropriate risk. We needed to act quickly. FTA had the statutory authority, and FRA did not have the statutory authority at this time to oversee commuter rail. I mean, FRA had the statutory authority for commuter rail but not for urban public transit.

Mr. BEYER. Thank you very much, Mr. Chairman.

Mr. MEADOWS. I thank the gentleman. The chair recognizes the ranking member for a followup question.

Mr. CONNOLLY. I'm just going to ask one question and then yield to Mrs. Comstock.

Ms. Flowers, you just told my colleague, Mr. Beyer, that you have the statutory authority to even withhold funds, 5 to 15 percent. And, in fact, you have threatened to do that if the three juris-

dictions do not form this oversight committee in a certain course of time. Is that correct?

Ms. FLOWERS. That's correct. One year. February of next year.

Mr. CONNOLLY. All right. Have you taken cognizance of the legislative schedules of the two respective states, Maryland and Virginia?

Ms. FLOWERS. Yes, we have. And what we would like to see as—and we're continuing to provide technical assistance and work with the three jurisdictions, what we'd like to see is this move forward rather than actually take action to withhold funds.

Mr. CONNOLLY. Okay. I support what you're trying to do, and I support the pressure you're putting on them. But one little word of caution. Be aware of the difference in the legislative schedules so that we're not asking them to do something they can't possibly do within their legislative calendar.

Ms. FLOWERS. And I just want to say we could rather than would.

Mr. CONNOLLY. Okay. Thank you very much. And thank you for yielding.

Mr. MEADOWS. The chair recognizes the gentlewoman from Virginia, Mrs. Comstock, for 5 minutes.

Mrs. COMSTOCK. Thank you. And I thank the ranking member for—as a former member of the Virginia State Legislature, we are only there January through February or March sometimes. So that had some impact this year also, as we were trying to take some action. So thank you. And I also wanted to mention that Congressman Wolf had been up here, my predecessor, today, and this board—he—I mentioned we were having a Metro hearing. And he raised the same issue that Mr. Delaney raised on the board. So appreciate the honesty, Mr. Evans, in terms of looking at the expertise there, and obviously, there'll be challenges there to look at that, but I do agree with Mr. Delaney that that needs to be looked at more thoroughly.

I wanted to, again, return to some of the good management ideas I think our new general manager is focused on, just to get them on the record here. Because yesterday, you had talked about things like looking at Paratransit and how we can save money there. And I don't know if maintenance might be an area too that can be outsourced. But could you maybe detail, for the record, so we have some of these I think good positive ideas that again things that we'll probably all share and have in common and can improve?

Mr. WIEDEFELD. Sure. Yes. There are a number of things that I think that we could do more efficiently by getting out of them, to some degree, because it's not core to our mission. So, for instance, parking, obviously it does feed our system. We have 60,000 parking spaces. But, you know, that's not the core thing that we wake up every morning worried about. And I think that's an opportunity for private sector to do that, for instance. The Paratransit, again, we have a model that, you know, has—it's been around for years. But I think in today's technology, that there's opportunities to do that to make sure that we don't take anything away from any of our customers, but actually give them alternatives that, for us, will be cheaper and for—

Mrs. COMSTOCK. And I think yesterday you had cited that the average cost for Paratransit is \$50—

Mr. WIEDEFELD. Close to \$50.

Mrs. COMSTOCK. And so you were already identifying other ways, particularly on short trips where we could save money with sort of the on-demand economy and probably be more efficient for some of the users.

Mr. WIEDEFELD. More efficient. And right now, you have to give a 24-hour notice for your trip. A lot of times you have travel with other people. There's other alternatives. You can just call up and it can happen very quickly and with just you.

Mrs. COMSTOCK. We can welcome the Uber economy to Metro.

Mr. WIEDEFELD. Not one vendor.

Mrs. COMSTOCK. On demand.

Mr. WIEDEFELD. Right. The headquarters building is another opportunity, I believe, just in terms of the number of people we have there, and do we need that many people in a prime location. You know, I—basically I'm looking at that as well. On the maintenance side, on the fare collection side, I think, again, there's opportunities to—where it makes more sense to have other resources applied there, that's what we should do. So I'll continue to do that.

Mrs. COMSTOCK. Thank you. And I really appreciate it and just wanted to highlight some of those things. Because I think there's been some really good thought that the general manager has already put into this where I think we will find a lot of common ground, and maybe we can focus on those things first, bring the cost down and minimize some of the other problems and costs that we're dealing with so we can have a more civil discussion on that when we have actually solved a lot of these problems, have a very functioning system, and I appreciate your taking that approach as you proceed through, so thank you.

Mr. MEADOWS. I thank the gentlewoman. Let me follow up a little bit on what my good friend, Mr. Connolly, was saying with regards to jurisdiction.

Ms. Flowers, I don't know that you were necessarily the best group, and I really care a lot about Secretary Foxx. In fact, I consider him a personal friend. I don't know that it was necessarily the right decision. But here is my whole point on this. Mr. Hart and Ms. Flowers, we've got to get this system in a place where you're not at a hearing talking about the safety of this system. You know, so while it may be germane today, I'm hopeful that in the very near future it will not be a discussion that even comes up. You know, we talk about Uber a little bit. You know, I've got staff members now taking Uber and other forms of transportation to get to work who used to take the Metro, just because they can't count on it anymore. We've got to stop that. I mean, just pure and simple, we have to stop that.

Mr. Evans, you started out your testimony by talking and acknowledging the service that many of us have provided, whether it's attending the State of the District meeting as you mentioned with me. I want to acknowledge your service, I guess it's to Ward 2 and your service there, and certainly say thank you. There's no tougher job than local politics. And so I want to acknowledge that.

I guess the fundamental question is how many more hearings are we going to have before we fix the problem. You know, this now makes my fourth, either hearing or round table or meeting, that we've had on a mass transit system that I don't ride, you know, that the vast majority of people use here in the Federal Government. And whether it's 50 percent or 60 percent. You know, even if it's higher than that, we've got to get it right. And by getting it right, I need to figure out who's in charge. Because is it a 16- or 14-member board? You know, is it the new general manager? Is it the coalition of people that put forth the people who actually sit on the board? Who's in charge? Who owns it?

You know, Mr. Evans, I think in your written testimony it says that you want to make it clear that you don't own the Metro and that Paul doesn't own the Metro. But somebody has to own the responsibility. And, I guess, that's what I'm getting to. Who is it? Who do we hold accountable for a system that has deferred maintenance and is not safe? Who is that?

Mr. EVANS. It's myself and Paul. We are the two people who are in charge of Metro today.

Mr. MEADOWS. Okay. You can't have two leaders. So ultimately where does the buck stop?

Mr. EVANS. Paul is in charge.

Mr. MEADOWS. Okay. So if Paul makes a decision that the board doesn't agree with, what happens to Paul?

Mr. EVANS. We haven't faced that yet.

Mr. MEADOWS. But you will. I mean, listen, this is a big problem. It's taken 40 years to get here. Deferred maintenance. You've been on the board three times? Is this your third tour of duty?

Mr. EVANS. Twice. Second tour of duty, yeah.

Mr. MEADOWS. All right. So as we look at this, it's going to happen where the board thinks one thing and Paul, as the expert, thinks something else. So if Paul does that, does he get fired?

Mr. EVANS. No. That would be my position as chairman of the board, but I am only one board member. But in that situation, I would defer to the general manager, who I believe has the expertise that the rest of us on the board do not have.

And so, the close-down is a good example. We discussed it, and then I turned to Paul and said, What do you want to do? And he said, Close it down. And everybody got on board. And I believe that that's how this will operate. Keep in mind, we have nine out of 16 new board members. This isn't the board of a year ago. And I believe it's a better board than we've had in a long time. And we support the general manager. And what he's doing he is assessing the system—just to answer your longer question. He's going to come back in 6 weeks with a plan to fix this. And then we, as a region, are going to have to decide how to implement the plan.

The question you haven't asked me today is about the 6 months and Blue Line. And so I'll address that. What we have to do is come up with a plan to fix this. It's like a bridge going into Georgetown that I have to fix. All right? It's about to fall down. If we close it entirely, I can do it in 6 months for \$5 million. If we do half, it's going to take me 18 months and \$12 million. If I do it a lane at a time, it's even worse. It's convenience versus safety versus

time versus money. And we as a region have to decide that. Closing something for 6 months is a bad idea.

Mr. MEADOWS. Well, yeah. Let me just jump in here. And so let me—if I haven't been clear before, let me be clear. Closing the Blue Line for 6 months is not an option.

Mr. EVANS. Not an option.

Mr. MEADOWS. Do you understand that?

Mr. EVANS. No, I understand that.

Mr. MEADOWS. And you'll take that to the board, that it's not an option.

Mr. EVANS. Absolutely. But what we're doing now is also not working, which is the other extreme. Three hours at night, and on the weekends single tracking. So somewhere between those two extremes we have to come up with—

Mr. MEADOWS. You know, I'm a numbers guy, and I agree with you, because I went through and looked at the traffic and how people—and actually had the staff, and they looked at all those numbers. And actually, we could close down the Metro on the Blue Line maybe at 10 o'clock at night, work all through the night, and have it back up by 5 a.m. The next morning. Have a normal work period. Do more work on Saturdays and Sundays. I mean, I've looked at it. And the number of people that you affect is infinitesimal compared to the 200 million that travel. So when we make those kinds of statements, I can tell you that Jerry and I—and it really affects him. Because I can tell you, I'm not going to be getting calls in North Carolina about the Metro in D.C. being down. Jerry will. Barbara will. And so when that happens is you got to understand that, you know, what we endured for 26 hours will be multiplied times 6 months, it's just not an option. And so, but you made a statement, Jack, that you said "we." All right? So is it him or is it we? Who's in charge? Because ultimately, what I've got to get to is, I want the next person that's sitting here to be able not only to certify that it's safe, but they made all the instructions. And if they're asking for money that we have given them, the additional resources that they need to do that, and so you're saying that he can make the tough decisions, and if he does, the board's not going to fire him. Or at least you as the chairman are not going to recommend that?

Mr. EVANS. That's correct.

Mr. MEADOWS. All right. Thank you. All right. So let me go to you, Mr. General Manager. As you've looked at this system, how much deferred maintenance should have been done that wasn't done?

Mr. WIEDEFELD. I don't have a numeric, but I think—again, I think the approach is part of the issue, the way we've been trying to it, what you just talked about. You know, I just ran the numbers. We—

Mr. MEADOWS. So how many jumper cables were replaced between the death that we had in 2015 and literally, the other day when you closed the system down? How many jumper cables were replaced?

Mr. WIEDEFELD. The number of the sleeves were 65 percent. But, again, that's part of the issue that I've had is we tend to do things around a particular issue and not look at this thing together. So,

for instance, going out and replacing all the sleeves on the boots, that was dealing with one issue. That was not dealing with the issue of a cable that's lying on the ground. That's not dealing with a cable that's lying in moisture. That's not dealing with drains that aren't working which creates those issues. And that's where we got to come at this thing and not just the boot.

Mr. MEADOWS. So why would you say that those assessments haven't been done? Because when we had an unbelievable horrific tragedy that happened, I mean, everybody came. You know, we all came to a meeting. I mean, we were determined to get this fixed right away and get it done. And yet, what I heard from your testimony earlier was that we're going to wait to do another mile of tests to figure out—okay. I'm seeing a shaking head no. So I must have misheard that.

Mr. WIEDEFELD. That was the cell phone issue. That was a cell phone issue.

Mr. MEADOWS. Oh, okay. All right.

Mr. WIEDEFELD. That's a totally different issue. No. What I'm doing right now, based on what happened 3 weeks ago, is I'm looking from L'Enfant Plaza to 3 weeks ago. What did we do? Who did what? So I'm going to get to that issue, like what was done there? People had to do certain things. And did they do it—did they do it—did we do it poorly? What did we learn and then what did we put in place and did that occur on the day of—at McPherson Square. Then—and so there's three things going on. It's what happened in that 14 months? What happened on this incident? And then what are we going to do going forward? So, for instance, we've already initiated a new team that goes out every day basically and looks at the cables. So we weren't doing that before. Now we do it, in effect—they do the entire system—it takes them a month to do the entire system. So in effect, we're doing that every day. We're going out and checking that. We weren't doing that before. So I already put those things in place. But even that, I'm not sure that's all we can do. You know? And that's why it's got to be part of this overall plan where we come out and we say, All right. We're going to fix the track. We're going to fix the cable. The power cables. We're going to fix the drainage system. We're going to fix those things as we go out there rather than keep coming back and forth and dealing—running off and doing this, running off and doing that.

Mr. MEADOWS. All right. So how do you respond to the criticism that there is a culture within the WMATA family that does not really emphasize safety or service? Is there a culture? Is that an accurate statement?

Mr. WIEDEFELD. It is.

Mr. MEADOWS. Okay. Well, part of fixing a problem is recognizing that you have one. And so I would just say thank you for your candor and your honesty. Mr. Evans, thank you for your leadership on the board. I have a request of the two of you, and I'd like you to answer it verbally, if you would. If you find that there are board members that are trying to exert their influence over the general manager, Mr. Evans, are you committed to at least letting either me or the ranking member know that that is happening?

Mr. EVANS. Yes, I am. And if I do find that, I will act myself, but I will also—

Mr. MEADOWS. I believe that. I believe that. And to you as a general manager, if you find that there is impediments to you getting this restored and up to speed from a safety and service standpoint, and that you're getting undue political influence from the board, and I use the word "political" because there will be differences of opinions, are you committed to let the ranking member and I and this committee know?

Mr. WIEDEFELD. I will let you know, but it will be after the fact, because I won't be here any longer.

Mr. MEADOWS. Okay. Well, enough said. Well, I want to thank each of you for your testimony. I want to recognize the ranking member for a brief closing statement.

Mr. CONNOLLY. Thank you, Mr. Chairman. And thank you for your support and collaboration. I know it's there, even though you represent North Carolina, not the National Capital. But all of us, as Mr. Evans indicated, must take ownership for the National Capital Transit System. You know, you were asking what happened, and my legislative director and I came up with a way of putting it, which is we have witnessed a maddeningly decade-long descent into mediocrity, where it's imbued the entire workforce. I only work 8 or 9 hours, and if it doesn't get done in that timeframe, that's somebody else's problem. Customer is unhappy? So what. Answering a question? Not my job. And just as Mr. Evans indicated, it's everybody's concern. Within the workforce, everything is everybody's job, I mean, at a certain level, especially when it comes to public safety. And what worries me about this deterioration are the implications of it. This is Washington, D.C. This is the capital of the superpower elect. It is always going to be a target, tragically, for bad people wanting to do bad things. And we cannot allow the deterioration of our Metro system to become the soft underbelly of any target in the future.

Tens of thousands of lives every day depend on that safety and that reliability in some fashion. And so the stakes are even higher, frankly. After tragic attacks in Europe, what more do we need by way of warning that this isn't just a nice thing to do? This isn't just us being anal retentive because we want a cleaner Metro system. It's about the security and welfare of our country. And Metro is a very important part of that calculus. So it behooves all of us to find swift and efficacious solutions to the problems we've identified today. And, again, I thank my good friend from North Carolina for his indulgence and for his support.

Mr. MEADOWS. I thank the gentleman.

I want to thank each of you. We have a task ahead of us, and that task is monumental in ways.

Mr. Evans, you talked about the fact when it was originally put in place it was the modern era of "The Jetsons." I'm old enough to remember "The Jetsons." So as we look at that, we've gone from "The Jetsons" to Mr. Toad's Wild Ride.

It's time to bring it back to a point of honor and a standard of which not only your constituents, but Mrs. Comstock's constituents, Mr. Connolly's, and all of those that are around can be proud of it. I'm committed to work in a bipartisan manner to do that.

I'm afraid the general manager, it's going to end in your portfolio to fix. And so what I would like is within the next 90 days is an update on what has been done, what is going to happen in the next 90 days. I think it would be prudent if you have a 90-day update as we look at this. And before we make any long-term decisions on what is closed or not closed, I'd ask that we really get some input from those who benefit from this system each and every day.

Mr. MEADOWS. Thank each of you.

If there is no further business before the committee, the committee stands adjourned.

[Whereupon, at 4:33 p.m., the subcommittees were adjourned.]

