

September 23, 2010

**Written Testimony of Matt Bassett, Tri-state Oversight Committee (TOC) Chairman
Before the House of Representatives, Committee on Oversight & Government Reform
Subcommittee on Federal Workforce, Postal Service & District of Columbia Oversight**

1. Introduction

Chairman Lynch, Ranking Member Chaffetz and distinguished members of the Subcommittee on Federal Workforce, Postal Service and District of Columbia Oversight, good afternoon. On behalf of the Tri-state Oversight Committee, thank you for the opportunity to discuss the ongoing challenges and recent improvements in the Washington Metropolitan Area Transit Authority's rail safety efforts.

Since our committee last testified before Congress on April 21st of this year, both WMATA and the TOC have made significant progress in addressing safety shortcomings accurately noted by Congress, the National Transportation Safety Board, the Federal Transit Administration and the riding public. These organizations have been steadfast partners in making the Metrorail system safer, and we appreciate their continued interest and engagement.

The progress I note is visible in two broad areas. First, the TOC has transformed our method of doing business, increasing our access to funding, executive leadership and full-time personnel. Second, WMATA has initiated an aggressive program to develop a true safety culture by taking a clear-eyed look at the current operating environment, developing new safety performance metrics, redirecting capital funds to address NTSB recommendations and providing unprecedented resources for the Safety Department. We applaud WMATA's actions in these areas; however, the TOC remains concerned about continued difficulties in exercising our safety oversight duties over WMATA.

2. TOC Accomplishments

As you know, on April 20th, 2010 the TOC issued a proposal for enhancing safety oversight over the Metrorail system that has been put into action by the Governors of Maryland and Virginia and the Mayor of the District of Columbia. These leaders committed, among other things, to raise the TOC funding level, provide full-time and supplemental staffing, and ensure access for TOC members to immediately raise rail safety concerns to state transportation leaders. This has, in particular, led to the creation of the TOC Executive Committee, a working group of the Secretaries of Transportation from Maryland and Virginia as well as the DC Director of Transportation, which meets regularly to provide guidance and policy direction for the TOC.

In addition to raising the annual level of TOC funding (which has supported special evaluations of safety issues like the 4000-series door problem) the high-level policy support afforded to the TOC by the Executive Committee has instituted an unprecedented level of situational awareness and executive communication with WMATA and other stakeholders. For example, while the report of a track-circuit problem near the Wheaton Red Line station was ultimately determined to be unfounded, the TOC Executive Committee transmitted a letter expressing their concerns to the WMATA General Manager within 48 hours.

In July, TOC brought its second full-time member on board. Maryland TOC member James Benton brings with him more than two decades of experience in railcar maintenance and rail transit operations from the Maryland Transit Administrations Light Rail and Metro subway operations in Baltimore. His expertise has proven invaluable in responses to several incidents and reported hazards in the last six months, and he has become a regular presence in the field, at WMATAs rail yards, rights-of-way and work sites. The District of Columbia is also hiring a full-time TOC member, with the position actively advertised in several publications.

On July 27th, the TOC attended the NTSB's public meeting in which they formalized the final report for the June 22nd, 2009 Fort Totten Red Line collision. We are fully committed to addressing the NTSB's recommendation to our committee, entitled R-10-7, which asks that we work with WMATA to fully address the recommendations of the Federal Transit Administration's March 4th, 2010 final audit report. We have already met with FTA and WMATA to provide documentation and explanations of our actions to meet this objective, and look forward to continuing our work to address both the FTA's and the NTSB's concerns.

Between June and August, the TOC completed the on-site and written portions of our Triennial Safety and Security Review of WMATA's rail operations. This review, mandated by 49 CFR Part 659, assessed WMATA's compliance with all aspects of its rail safety, security and emergency preparedness programs. A team of TOC members and technical consultants spent three weeks working with WMATA staff, as well as invited federal observers, evaluated whether WMATA was in compliance with its own plans and procedures, inspected facilities and equipment, interviewed personnel from all levels of the agency and conducted exhaustive document review. The final report for our Triennial Safety & Security Review will be made public after the TOC can evaluate comments on the draft report submitted by WMATA, and we anticipate publication of that report on our website within the next two weeks.

On September 13th, the TOC Executive Committee signed a revision to the Memorandum of Understanding between Maryland, Virginia, and the District of Columbia that governs the TOC. This document, which originally established the TOC in 1997, provides us authority and an operating framework by which we develop safety programs and standards. The revised MOU responds to the concerns identified by FTA in their March 4th, 2010 audit report, as well as those noted by the NTSB in their final accident report on the June 22nd collision. Specifically, it affords additional executive authority to the TOC Chair to take immediate action, formalizes reporting relationships with the WMATA Board of Directors, and formalizes the role of the TOC Executive Committee created by the two member Governors and Mayor and establishes a process for regular high-level dialogue between it and the TOC. The revised MOU also codifies the commitment of the TOC and the TOC Executive Committee to take any action permitted by law, including the delay, suspension, or cancelling of capital funding to WMATA in the unlikely event that all other options to resolve issues between TOC and WMATA have been utterly exhausted.

TOC has migrated its website from the DC DOT server to an independent site with an easier-to-remember address. www.tristateoversight.org has become a vital tool in our efforts to communicate with the public, address media inquiries, post updates on our activities, and share key documents on how we oversee rail safety at Metro. TOC is also working to establish its own office space for its staff to work and meet collectively.

3. *WMATA Accomplishments*

Since the arrival of WMATA Interim General Manager Richard Sarles, the TOC has been pleased to note that safety has been placed not just at the forefront of WMATAs rhetoric, but of their efforts as well. It came as a welcome change of pace when, in an initial meeting with Mr. Sarles, he set out specific monthly goals for the closure of open safety Corrective Action Plans, or CAPs. His regular presence at TOC meetings and long-overdue restructuring of the WMATA Executive Safety Committee have helped guide a comprehensive response to the many safety challenges the TOC is working with Metro to address.

Mr. Sarles hiring of James Dougherty as Chief Safety Officer, as well as a number of new safety experts with experience at systems like the Long Island Railroad and Amtrak, has completely reshaped Metro's rail safety program. Rather than the traditional public-sector mantra of being asked to do more with less, the Safety Department is now being asked to do much more with more. Support from technical consultants, a comprehensive employee survey assessing views on safety and safety culture, and (perhaps most of all) a robust and consistent flow of communication between the Chief Safety Officer and General Manager all constitute praiseworthy accomplishments.

Instead of focusing the bulk of their efforts on addressing worker's compensation cases or occupational safety, the Safety Department is now investing in new systems and processes to streamline their accident investigations, resolve open corrective actions, and improve their ability to audit for safety issues internally. The Safety Department has taken a significant step forward in clarifying its authority over all accident investigations, including on-scene decisions. Furthermore, this new business model has allowed for collaboration across WMATAs operating departments, incorporating the Safety Department into projects and decisions that might previously have been made without them.

A good example of this new approach is the recent completion of WMATA's new Roadway Worker Protection, or RWP Manual. In our special audit of December 2009, the TOC identified a number of systemic faults in WMATAs procedures and practices for keeping its track workers safe, and only a few weeks later two track workers tragically lost their lives in an accident on the rails near Rockville, Maryland. WMATAs response to this incident illustrated their new approach to safety.

By bringing together a task force of safety, operations, labor and management employees, as well soliciting input from outside rail agencies, subject matter experts and federal regulators, as well as representatives from our committee, WMATA created a comprehensive document which addressed the TOCs concerns and will substantially improve safety on the Metrorail tracks. We were encouraged and optimistic to see Mr. Sarles, Mr. Dougherty and Acting Deputy General Manager David Kubicek sign the manual two weeks ago. In similar fashion, WMATA recently completed their Metro Safety Rules & Procedures Handbook revision, complying with long-standing TOC and NTSB recommendations and using similar strategies to create a framework that worked for the entire rail system.

WMATA has also committed to improving the process by which it communicates hazards. Many employees hesitate to report safety concerns or missteps for fear of retaliation or discipline. WMATA management has acknowledged the need to develop a non-punitive safety reporting system, and while this remains a work in progress, the TOC considers the development of such a program crucial to achieving a complete and accurate picture of how the system is actually run- and how safe the system truly is.

Furthermore, the TOC and its member jurisdictions, have, since we last testified before this body, been working with WMATA to develop a Memorandum of Understanding to formalize the duties, roles, and responsibilities of WMATA and the TOC. The goal of the MOU is not only to implement federal requirements, but also to strengthen the relationship between WMATA and the TOC jurisdictions so that the TOC can effectively carry out its oversight duties transparently, independently, and with adequate authority. Because of differences of opinion on certain terms within the agreement, further negotiations are needed. TOC and the TOC Executive Committee remain confident that these negotiations will be conducted in good faith and conclude in the near future. It is our hope that this agreement between WMATA and TOC will, in the near-term, address shortcomings identified by this Subcommittee, and by the FTA and NTSB. To increase TOC's policymaking authority and enforcement capabilities in the long-term, when more is known about which federal policy changes will be taken with regard to transit safety oversight, it is likely that the three jurisdictions will need to have a Compact agreement to codify transit safety oversight requirements.

4. Ongoing TOC Concerns

Despite noteworthy advances in communication, asset allocations and leadership attention to safety, WMATA continues to encounter challenges in fully complying with TOC requests and program requirements. While examples such as the RWP manual demonstrate a positive trend, WMATA's organizational culture, particularly within the rail operations department, has not yet reached a crucial threshold- demonstrating a willingness to "show their work."

WMATA makes decisions that are critical to the safety of the rail system every day. One particularly high-profile decision was the choice to remove the 4000-series railcars from service after Metro technicians discovered a potential fault that could allow train doors to open during movement. Metro immediately removed all 4000-series cars from the line, and in fact did so within hours of the July 4th weekend, cutting 11% of their vehicle fleet in advance of a major ridership weekend. Within 24 hours, the TOC was on a conference line being briefed by senior WMATA leadership, and WMATA staff helped a TOC contract engineer over that holiday weekend conduct an on-site inspection of the response efforts.

There is no question that WMATA's immediate response to the 4000-series hazard was to take the safest possible course of action. However, the TOC's attempts to learn more about this situation were met with delays and vague responses. On July 6th, we asked WMATA to provide us with more information about the decision leading up to the removal of the rail cars. Since Metro had claimed that the decision was "not prompted by a particular incident," and the problem discovered through "performance tests and observations," we hoped to learn more about those tests, observations and decisions. We also requested a copy of a written procedure for the repairs to the 4000-series door assemblies.

We received conflicting and confusing answers when we inquired as to the status of our request. At one point, we were told no procedure existed; at another, we were informed it was still being drafted. In the end, we were given a copy of the full procedure and learned that it had been in effect since three days after our original request. It took 20 days for us to get a complete answer.

Our request for information about the decision process behind the 4000-series removal took even longer. Despite straightforward requests that represented no undue burden on WMATA staff, the TOC's attempts to gather information bore little fruit. It was only when we were

able to secure access to front-line personnel during an August 10th railcar maintenance shop visit that we found the answers we needed. Indeed, one particular incident did not motivate the decision to remove the 4000-series, but rather a number of incidents.

During the process of trying to learn more about the 4000-series railcars, TOC was in contact with the General Manager as well as alerting the TOC Executive Committee and working closely with the Chief Safety Officer. It is safe to assume that had we not had access to those individuals, the process could have taken even longer.

In short, TOC's difficulty in obtaining information during the follow-up (although certainly not the initial response) to the 4000-series fleet removal shows that work remains to be done. It seems to us that in certain circumstances, our needs as an oversight organization for timely and accurate information are not of an acceptably high priority.

WMATA's massive rail operations department employs unquestioned subject matter experts in a myriad of different technical sub-specialties essential to running a modern subway system. TOC's role has never been to second-guess WMATA's operating decisions or to play "Monday morning quarterback." Rather, it is our role to support WMATA by carefully reviewing and validating the processes by which they make safety-critical decisions.

To sustain the laudable progress made in the last six months, WMATA's efforts to change its culture must include a commitment from the very top to transparency, openness, and a willingness not just to inform the TOC of the safety conclusions they have reached, but to show their work in how they reached them.

5. Conclusion

Many challenges to the goal of making Metro America's rail transit safety leader remain. Issues of oversight and governance still need finalization, and achieving a culture of safety-whether in senior management or among line employees- remains a difficult goal to achieve. However, if WMATA can sustain their progress by promoting transparency, continuing to empower the Safety Department, holding managers accountable for safety goals and improving hazard communication across the organization, we believe they will be positioning themselves to grow smarter, safer and stronger from the tragedies of the last 21 months.

The safety of Metrorail is everyone's responsibility. The continued engagement of Congress, the Federal Transit Administration, the National Transportation Safety Board and the riding public, as well as the TOC in our state safety oversight role, will be crucial to WMATA's success in this endeavor.

I thank you for your time and look forward to your questions.