



Session #3

# Front Line Player: Passenger Rail Operations Confronting Human Trafficking and Federal Immigration Enforcement Activities



KAPLAN KIRSCH





# Frontline Player: Passenger Rail Operations Confronting Human Trafficking and Federal Immigration Enforcement Activities



Moderator: **Allison I. Fultz**, Partner, Kaplan Kirsch LLP

Panelists:

**Jared J. Garth**, Senior Associate General Counsel, Amtrak

**Kathleen Silbaugh**, General Counsel, Washington  
Metrorail Safety Commission

**Laura K. Kilgarrieff**, Associate, Kaplan Kirsch LLP

*For more information, a full list of  
PRLW sessions, and to register, visit:  
[CommuterRailCoalition.org](https://CommuterRailCoalition.org)*

*This session will cover key legal considerations  
raised by the frontline role that passenger rail  
systems and facilities may play in law  
enforcement efforts, focusing on two current  
hot-button issues: human trafficking and  
enforcement of federal immigration laws.*



**PASSENGER RAIL LAW WORKSHOP WEBINAR 3 OF 6**  
**Thursday, November 13, 2025 | 3:00 p.m. EST**



*A collaboration between Kaplan Kirsch LLP and the Commuter Rail Coalition*

# Passenger Rail Law Workshop



November 13, 2025

Kathy Silbaugh

Washington Metrorail Safety Commission



# Washington Metrorail Safety Commission



The independent entity responsible for direct safety oversight of WMATA's Metrorail system in the District of Columbia, Maryland, and Virginia.



# Washington Metropolitan Area Transit Authority Overview

- 1967 Created by Interstate Compact
- 1976 Began rail service (5 Red Line stations)
- FY2026 Total Budget = \$5.1B(\$2.5B Capital, \$2.6B Operating)
- ~13,000 employees
- 98 stations
- 128 miles of track - 750-volt third rail
- 10 rail yards
- 1,290 railcars - 3000, 6000, 7000 Series in service, 8000 Series in development
- FY2025 forecasted ridership (all systems) = 257 million trips





# WMSC Role

- Metrobus (no oversight by WMSC)
- MetroAccess (no oversight by WMSC)
- WMATA Rail System or Metrorail: “the rail fixed guideway public transportation system and all other real and personal property owned, leased, operated, or otherwise used by WMATA rail services and shall include WMATA rail projects under design or construction by owners other than WMATA”







# Early Safety Oversight

## A TIMELINE OF USDOT/FTA WMATA METRORAIL SAFETY OVERSIGHT ACTIONS



Federal Transit  
Administration

### ● Feb. 4, 2015

FTA announces it will **conduct an SMI** of Metrorail following Jan. 2015 L'Enfant Plaza electrical arcing incident and passenger fatality

### ● June 17, 2015

FTA **releases SMI findings** and issues Safety Directive 15-1 to WMATA

### Feb. 8, 2016

FTA determines that the TOC is incapable of carrying out safety oversight responsibilities and **sets a one year deadline** for VA, MD and DC to create a new SSOA or risk withholding of federal transit funds

### Feb. 10, 2017

VA, MD, and DC fail to meet deadline to obtain an FTA-certified State Safety Oversight Program; FTA **withholds some federal transit funds** from each jurisdiction



# What is an SSOA?



Federal Transit Administration

Purpose: the State Safety Oversight program oversees safety at rail transit systems.

The SSO program is administered by eligible states with rail transit systems in their jurisdiction.



U.S. Department  
of Transportation  
Federal Transit  
Administration

Executive Director

1200 New Jersey Avenue, SE  
Washington, DC 20590

## FTA Certification (2019)

The Honorable Larry Hogan  
Governor of Maryland  
Office of the Governor  
100 State Circle  
Annapolis, MD 21401

The Honorable Ralph Northam  
Governor of Virginia  
Office of the Governor  
P.O. Box 1475  
Richmond, VA 23218

The Honorable Muriel Bowser  
Mayor of District of Columbia  
John A. Wilson Building  
1350 Pennsylvania Avenue NW #406  
Washington, DC 20004

Dear Governor Hogan, Governor Northam, and Mayor Bowser:

This letter is to inform you that the Washington Metrorail Safety Commission's (WMSC) State Safety Oversight (SSO) Program has been approved and certified by the Federal Transit Administration (FTA) in accordance with the requirements of Federal public transportation safety law (49 U.S.C. § 5329(e)) and FTA's SSO regulation (49 C.F.R. Part 674).

Certification is an important achievement and promotes the safety of our nation's rail transit systems. The WMSC's and the supporting jurisdictions' diligence in fulfilling these requirements and devoting necessary resources will make public transportation safer for the passengers who ride Washington Metropolitan Area Transit Authority (WMATA) Metrorail.

With this certification, FTA is officially relinquishing its direct safety oversight of WMATA Metrorail to the WMSC at the close of WMATA's regular service hours today. The FTA will continue working with the WMSC over the coming weeks to ensure a smooth transition.

In addition, FTA is releasing all withheld funds now. Accordingly, the five percent (\$48.5M) of FTA formula grant funds that has been withheld since February 2017 from the District of Columbia, Maryland, and Virginia is now available to be awarded for transit projects.





## WMSC Compact (2017)

-Only tri-state  
SSOA

-the WMSC  
Compact was  
reviewed by  
Congress

-Resolution signed  
by the President

# WMSC Is Authorized

PUBLIC LAW 115-54—AUG. 22, 2017

131 STAT. 1093

Public Law 115-54  
115th Congress

### Joint Resolution

Granting the consent and approval of Congress for the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to enter into a compact relating to the establishment of the Washington Metrorail Safety Commission.

Aug. 22, 2017  
[H.J. Res. 76]

Whereas the Washington Metropolitan Area Transit Authority, an interstate compact agency of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, provides transportation services to millions of people each year, the safety of whom is paramount;

Whereas an effective and safe Washington Metropolitan Area Transit Authority system is essential to the commerce and prosperity of the National Capital region;

Whereas the Tri-State Oversight Committee, created by a memorandum of understanding amongst these 3 jurisdictions, has provided safety oversight of the Washington Metropolitan Area Transit Authority;

Whereas 49 U.S.C. 5329 requires the creation of a legally and financially independent state authority for safety oversight of all fixed rail transit facilities;

Whereas the District of Columbia, the Commonwealth of Virginia, and the State of Maryland intend to create a Washington Metrorail Safety Commission to act as the state safety oversight authority for the Washington Metropolitan Area Transit Authority system under 49 U.S.C. 5329; and

Whereas this compact is created for the benefit of the people of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland and for the increase of their safety, commerce, and prosperity: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

### CONSENT AND APPROVAL OF CONGRESS

SECTION 1. The consent and approval of Congress is hereby given for the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to enter into a compact for the safety oversight of the Washington Metropolitan Area Transit Authority Metrorail system (known as the Metrorail Safety Commission Interstate Compact), which has been negotiated by representatives of the State, the Commonwealth, and the District, substantially as follows:



# Key Authorities

## Commissioner Adopted

PUBLIC LAW 115-54—AUG. 22, 2017 131 STAT. 1093

### Compact

Public Law 115-54  
115th Congress

#### Joint Resolution

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## WASHINGTON METRO RAIL SAFETY COMMISSION PROGRAM STANDARD



October 1, 2025



### POLICIES

- Open Meetings Policy — [Download PDF](#)
- Conflicts of Interest Policy — [Download PDF](#)
- Ethics Policy — [Download PDF](#)
- Freedom of Information Act Policy — [Download PDF](#)
- Public Comment Policy — [Download PDF](#)
- Reimbursable Expense and Compensable Meeting Policy — [Download PDF](#)
- Internal Controls Manual — [Download PDF](#)
- Procurement Manual — [Download PDF](#)

### Public Transportation Agency Safety Plan



DOCUMENT NUMBER: 4100-1-01/04 VERSION: 4.0 RELEASE DATE: December 31, 2023

CONTENT OWNER:

Department of Safety  
Washington Metropolitan Area Transit Authority  
300 7th St., SW Washington, DC 20024

## Amended and Restated Bylaws of the Washington Metrorail Safety Commission

### Bylaws

Adopted August 8, 2023  
Effective September 10, 2023





# WMATA Public Transportation Agency Safety Plan



- ▶ PTASP is WMATA’s commitment to a strong safety culture
  - ▶ Accountability
  - ▶ Increased use of data
- ▶ Complies with federal law and regulations
- ▶ Sufficiently explicit process for safety risk management, with adequate means of risk mitigation
- ▶ Comprehensive staff training program for operations personnel directly responsible for safety
- ▶ Identifies an adequately trained safety officer who reports to the General Manager & CEO

1.4	Safety Performance Targets.....	6
1.4.1	Safety Performance Target Setting Methodology and Timeline .....	6
1.4.2	Safety Performance Targets.....	8
1.4.3	System Reliability Targets .....	8
1.5	Risk Reduction Program.....	8
1.5.1	Visibility for Bus Operators .....	9
1.5.2	Transit Worker Assaults .....	9
1.6	Development and Implementation of a Safety Management System .....	11
2.0	Safety Management Policy .....	13
2.1	Safety Management Policy Statement .....	13
2.2	Employee Safety Reporting Program .....	15
2.3	Communication of the Safety Management Policy .....	16
2.4	Necessary Authorities, Accountabilities, and Responsibilities .....	17
2.4.1	Accountable Executive .....	18
2.4.2	SMS Executive .....	18
2.4.3	Agency Leadership and Executive Management .....	22
2.4.4	Key Staff .....	23
2.4.5	Safety Committees.....	24
3.0	Safety Risk Management .....	26
3.1	Safety Risk Management Process .....	27
3.1.1	Safety Hazard Identification.....	27
3.1.2	Safety Risk Assessment .....	28
3.1.3	Safety Risk Mitigation .....	30



# Safety Commitment

- ▶ Agency Safety Plan includes the GM & CEO's Safety Management Policy Statement
- ▶ Lists WMATA's safety objectives
- ▶ First bullet states, in part, *"...to reduce risks to as low as reasonably practicable and to achieve an organizational culture that fosters safe practices, encourages effective employee safety reporting and communication and actively prioritizes the management of risk..."*

In accordance with the safety management philosophy and approach, one of the GM & CEO's main responsibilities is to build and maintain an industry-leading safety culture and SMS in accordance with the FTA's adoption of the SMS approach in its National Public Transportation Safety Plan. This ASP establishes Metro's FTA-compliant SMS as the primary strategy to achieve this goal. This Policy Statement also certifies that the ASP is compliant with 49 C.F.R. Part 673 *Public Transportation Agency Safety Plan*, 49 C.F.R. Part 674 *State Safety Oversight* and the WMSC's Program Standard.

**Safety management is a core value at Metro.** All employees are accountable for appropriately identifying and effectively managing risk in all activities and operations to deliver continuous safety improvement and reduce safety risks as low as reasonably practicable, starting with the GM & CEO.

In accordance with the FTA's National Public Transportation Safety Plan, and 49 C.F.R. 673.23, Metro's safety objectives are:

- Support the management of safety through the provision of appropriate and sufficient resources to reduce risks to as low as reasonably practicable and to achieve an organizational culture that **fosters safe practices, encourages effective employee safety reporting and communication and actively prioritizes the management of risk**
- Define for all staff, including executive management, middle management and front-line employees alike, their responsibilities for the delivery of the organization's safety performance
- Establish and operate effective safety risk identification, assessment, and mitigation activities based on SMS safety risk management principles, including an employee safety reporting program that provides a fundamental source for safety concerns and hazard identification, in order to proactively mitigate safety risks and manage safety-critical items
- Ensure that no action will be taken against any employee who discloses a safety concern unless disclosure indicates an illegal act, gross negligence, or a deliberate or willful disregard of regulations or procedures
- Comply with, and wherever possible exceed, legislative and regulatory requirements and standards
- Ensure that skilled and trained human resources are available to implement SMS processes
- Ensure that communications and training result in employees knowing their role within SMS and how to implement the associated processes and tools that are commensurate with their skillset to drive its effectiveness
- Establish safety performance targets and measure against data-driven safety performance indicators
- Continually improve our safety performance through management processes that ensure that appropriate mitigating action is taken and effective
- Ensure the services and products provided in support of Metro's operations are implemented in compliance with SMS as specified in this ASP; this policy will be visibly communicated through my own direct efforts, the efforts of the senior executive team, senior management team, and through training programs and procedures

I affirm this commitment:

## Public Transportation Agency Safety Plan



RELEASE DATE:  
December 31, 2024

Authority  
2024







# WMATA Agency Safety Plan

## 2025 Safety Performance Targets

Category	Metric	Bus Target	Rail Target	MetroAccess Target
Fatalities	Fatalities (Count and Rate*)	0	0	0
	Transit Worker Fatality Rate*	0	0	0
Injuries	Customer Injury Rate*	50.2	14.7	10.5
	Transit Worker Injury Rate*	16.8	9.5	6.0
	Overall Injury Rate*	67.0	24.2	16.5
	Overall Injury Count	240	256	32
NTD Major Events	Major Event Rate*	74	12.8	23.7
	Major Event Count	284	127	46
	Collision Rate*	50.8	2.0	23.7
	Collision Count	194	20	46
	Pedestrian Collision Rate*	6.33	0	0.2
	Vehicular Collision Rate*	44.6	2.0	23.7
Assaults	Assault on Transit Workers Rate*	47.0	59.1	0
	Assault on Transit Workers Count	180	586	0

\*per 10 million vehicle revenue miles

### Public Transportation Agency Safety Plan



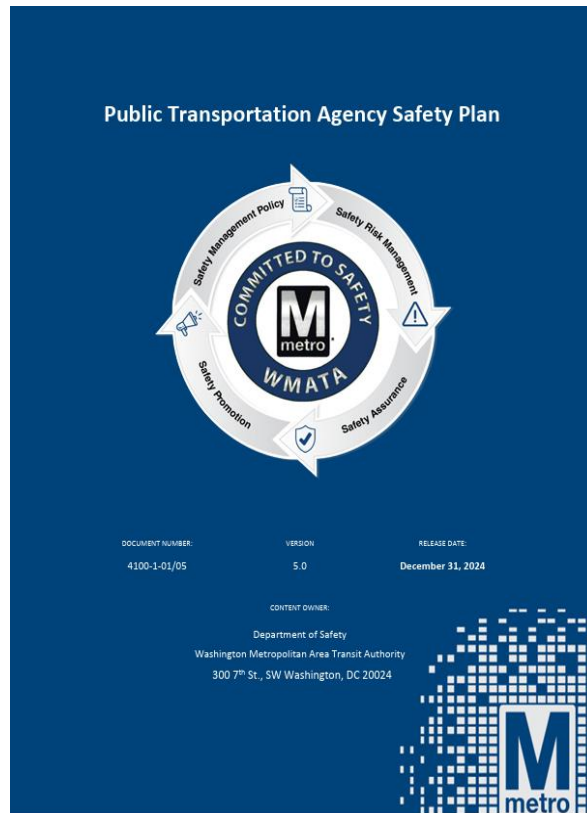
DOCUMENT NUMBER: 00-1-01/05  
VERSION: 5.0  
RELEASE DATE: December 31, 2024

CONTENT OWNER:  
Department of Safety  
Washington Metropolitan Area Transit Authority  
300 7th St., SW Washington, DC 20024





# Oversight of WMATA's ASP Commitments



- ▶ WMSC ensures Metrorail is meeting the requirements of its Agency Safety Plan through our audits, inspections, and other oversight
- ▶ The WMSC enforces these safety commitments when needed by issuing findings requiring Metrorail to correct safety hazards
- ▶ Elements are tracked and re-evaluated annually after the revised Agency Safety Plan takes effect



# FTA General Directive 24-1

## FTA Required Actions Regarding Assaults on Transit Workers July 1, 2025 FTA Presentation

### Background

**Following FTA issuing a General Directive to address the significant and continuing safety risk associated with assaults on transit workers nationwide, the agency conducted an initial analysis of how transit agencies are responding.**

The directive, issued in September 2024, requires more than 700 transit agencies nationwide – those subject to FTA's Public Transportation Agency Safety Plans (PTASP) regulation at 49 CFR part 673 – to:

- 1 Conduct a safety risk assessment** related to assaults on transit workers using the Safety Management System (SMS) processes documented in their Agency Safety Plan (ASP), unless the agency conducted a safety risk assessment related to assaults on transit workers in the twelve months preceding the date of issuance of the General Directive.
- 2 Identify safety risk mitigations** or strategies necessary as a result of the safety risk assessment.
- 3 Provide information to FTA within 90 days** of issuance of the General Directive on how they are assessing, mitigating, and monitoring the safety risk associated with assaults on transit workers.



# FTA General Directive 24-1

## FTA Required Actions Regarding Assaults on Transit Workers

### July 1, 2025 FTA Presentation

## Safety Management Systems: Lessons Learned from GD 24-1

### Safety Risk Management

- Identify hazards
- Assess risk
- Mitigate risk

*“what’s wrong?”*  
*“how bad is it?”*  
*“how will we fix it?”*

### Safety Assurance

- Monitor mitigations
- Measure performance

*“are our fixes working?”*  
*“are we meeting our safety objectives?”*

### Lessons Learned from GD 24-1

Agencies were able to leverage their **Safety Risk Management** processes

- *Only 10% of agencies had conducted safety risk assessments on the topic in 12 months prior to GD 24-1*

**Safety Assurance** processes proved more challenging for the industry

- *While agencies were generally able to assess safety risk, monitoring the effectiveness of mitigations proved more difficult*





# Safety....Security.... Both?

## ► Secretary of Transportation Duffy's March 6, 2025 letter



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, DC 20590

March 6, 2025

Mr. Randy Clarke  
Chief Executive Officer  
Washington Metropolitan Area Transit Authority  
300 7th Street, SW  
Washington, DC 20024

Dear Mr. Clarke:

I am writing to you regarding the U.S. Department of Transportation's focus on safe travel in the Nation's Capital. To protect the safety of passengers and workers on the D.C. Metro system, Washington Metropolitan Area Transit Authority (WMATA) must ensure crime and fare evasion are reduced.

Pursuant to its oversight authority, the Federal Transit Administration (FTA) directs WMATA to provide information about agency safety practices and expenditures. See FTA Master Agreement, Section 3(h)(2)(iii). The expectation is that WMATA will address this matter promptly. Of key importance will be documentation of actions and funding that ensure effective security for passengers and workers on the WMATA system.

For this FTA review of WMATA actions, please provide FTA with the following information:

1. WMATA actions and plans to reduce crime and fare evasion on the Metro system. Please include information about fare evasion trends and previous WMATA actions.
2. WMATA funds from all sources that are programmed to improve the security of passengers and workers. This should include information about all WMATA's fiscal year 2025 budgeted and fiscal year 2026 planned funds to reduce crime and fare evasion on the Metro system, including a comparison to prior year funding for such expenses. Please also include:
  - a. **Security** – Expenditures and budgeted funds that meet the Federal transit program security capital projects set aside requirement for Urbanized Area Formula Grants (49 U.S.C. § 5307(c)(1)(J)(i)).
  - b. **Safety** - Expenditures and budgeted funds that meet the Federal transit program safety set aside requirement for Urbanized Area Formula Grants (49 U.S.C. § 5329(d)(4)(B)).
  - c. **Non-FTA funds** – Information about funds from other Federal government agencies directed to the safety and security of Metro passengers and workers. This should include any Department of Homeland Security funds.

# Safety....Security.... Both?

## ► WMATA response to March 6, 2025 letter, dated March 19, 2025



Washington  
Metropolitan Area  
Transit Authority

300 7th Street, SW  
Washington, DC 20024  
202-962-1234

wmata.com

A District of Columbia,  
Maryland and Virginia  
Transit Partnership

March 19, 2025

The Honorable Sean Duffy  
Secretary  
United States Department of Transportation  
1200 New Jersey Avenue, S.E.  
Washington, D.C. 20590

Via email to Regional Administrator Terry Garcia-Crews

Dear Mr. Secretary:

Thank you for your letter dated March 6, 2025. Providing safe and efficient travel in the National Capital region are our core values at Washington Metropolitan Area Transit Authority (WMATA). We operate the second-busiest heavy rail system and sixth-busiest bus network in the United States serving the District of Columbia, Maryland, and Virginia.

WMATA serves a population of approximately 4 million within a 1,500-square-mile jurisdiction, has 98 rail stations and 128 miles of track, bus service that operates 24 hours a day, seven days a week with 1,500 buses, and provides about 2.5 million paratransit trips a year.

We work tirelessly to ensure safe, frequent, and reliable service for our customers, and over the last two years we have made great progress. In 2023, crime within WMATA's system was 8.03 crimes per million compared to 2.9 crimes per million year-to-date, a 64% reduction in crime, the lowest in seven years. At the same time, ridership is up by 35%, and customer satisfaction levels are higher than they have ever been, at 92% on Metrorail and 83% on Metrobus. WMATA has led the country in ridership recovery with 47 consecutive months of year-over-year ridership growth.

This progress could not have been possible without our law enforcement and jurisdictional partners, including those that passed legislation to make our efforts more effective. WMATA has introduced several major initiatives in the last two years to reduce crime and fare evasion including:

### Metropolitan Transit Police Department (MTPD) Staffing and Partnerships

- **MTPD Police Academy:** Like law enforcement agencies across the country, MTPD is facing recruiting challenges compounded by the requirement for our officers to meet the differing police qualifications in three jurisdictions (District of Columbia, Maryland, and Virginia). MTPD currently has 548 officers and civilian staff. Historically, recruiting efforts were further impacted by relying on training capacity at the Northern Virginia Criminal Justice Training Academy. To streamline our training pipeline and get more officers on the street quickly, WMATA created an in-house police training academy that will double training capacity, shorten training by seven weeks per class, and save WMATA approximately \$1 million dollars annually.







# Audits

Program Standard Section 5





# Current Audit Schedule

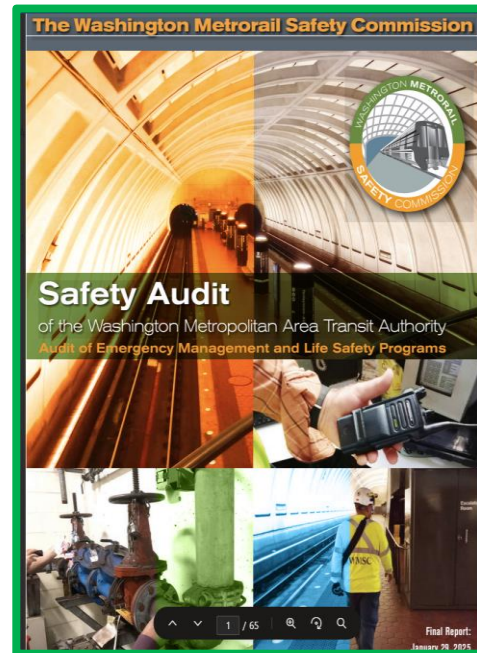


No.	Review Area	Expected Notification	Expected Onsite Activities
1	Track and Structures <i>with Roadway Worker Protection Component</i>	April 2025	June 2025
2	Internal Reviews and Internal Safety Reviews	July 2025	September 2025
3	Revenue Vehicles (Class 1 Vehicles) and Roadway Maintenance Machines (Class 2 Vehicles)	November 2025	January 2026
4	Automatic Train Control (ATC), Signals, and Communication Systems <i>with Roadway Worker Protection Component</i>	April 2026	June 2026
5	Power (Traction Power and Low Voltage Power)	August 2026	October 2026
6	Fitness for Duty and Occupational Health Programs	December 2026	February 2027
7	Emergency Management and Life Safety (Preparedness, Egress, Tunnel Lighting, Fire/Life Safety, and Related Aspects) <i>with Roadway Worker Protection Component</i>	March 2027	May 2027
8	Elevator and Escalator	June 2027	August 2027
9	Control Center and Rail Operations <i>with Roadway Worker Protection Component</i>	January 2028	March 2028

**\*This schedule is subject to change.**

# Sample WMSC Audit of PTASP Elements

- Identification of audit scope
- Document requests, document review
- Interviews
- On-site observations
- Compliance checks



## Appendix D: (PTASP) Elements

1. General Requirements
  - b. Emergency Preparedness and Response
  - c. Infectious Disease Mitigation
  - d. Safety Performance Targets
  - e. Development and Implementation of a Safety Management System (SMS)
2. Safety Management Policy
  - a. Safety Reporting Program
  - b. Communication of the Safety Management Policy
  - c. Organizational SMS Accountabilities and Responsibilities
3. Safety Risk Management
  - a. Safety Risk Management (SRM) Process
  - b. Ongoing Management of Safety Risk
  - c. Occupational Safety and Health Risk Management
  - d. Operational Safety Risk Management
  - f. Safety Certification
4. Safety Assurance
  - a. Performance Monitoring and Measurement
  - b. Documentation
  - d. Event Reporting and Investigations
  - e. Change Management
  - f. Corrective Action Plans
5. Safety Promotion
  - a. Competencies and Training
  - b. Safety Communication
  - c. Safety Committees
  - d. Hazardous Materials and Environmental Management
  - e. Safety Reporting Program Engagement



APPENDIX D: PTASPELEMENTS

This audit also identified critical areas where Metrorail is not following its procedures and requirements, is not addressing equipment issues and is not properly identifying and inspecting its life safety equipment. There are 5 findings that Metrorail is required to address through the corrective action process. The findings identified are:

- **Finding 1:** Metrorail does not have a reliable communication system for operations or emergencies.
- **Finding 2:** Metrorail Emergency Trip Stations (ETS) located throughout the system are not treated as fire life safety assets.
- **Finding 3:** Metrorail fire and life safety inspections do not identify and resolve deficiencies with fire life safety equipment and assets within stations.
- **Finding 4:** Metrorail is using emergency radio operations channel 6 although the channel is not ready for use.
- **Finding 5:** Metrorail is not contacting jurisdictional emergency services immediately upon identification of fire and smoke on the Metrorail system.

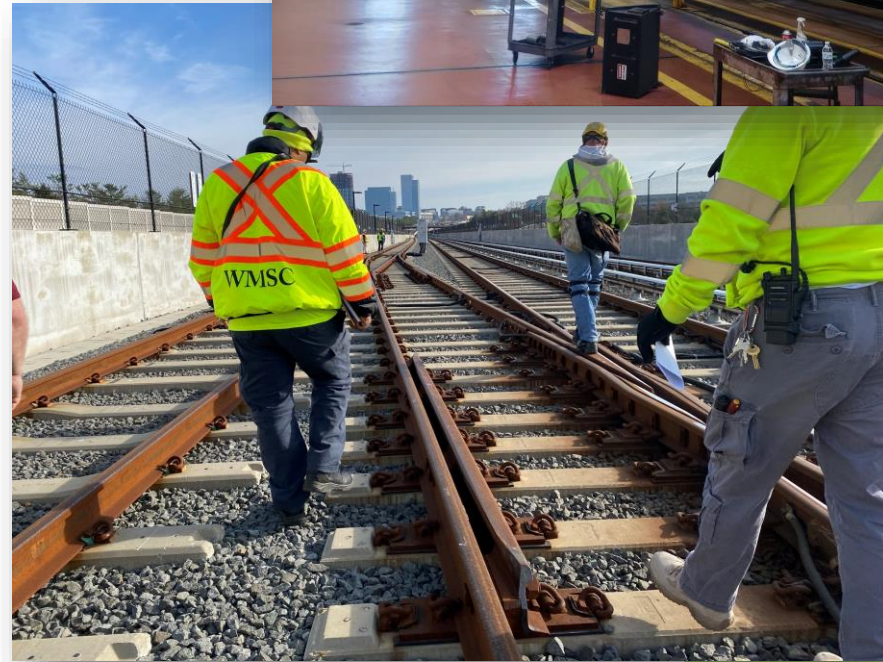
Full details on each finding are stated in the Findings and Minimum Corrective Actions section of this report. Metrorail is required to propose corrective action plans to address each finding no later than 30 days after the issuance of this report.





# Inspections

Program Standard Section 6



# WMSC Inspection Reports



750 First St. NE • Ste. 900 • Washington, D.C. 20002

Office: 202-384-1520 • Website: www.wmsc.gov

## WMSC Inspection Report 20250307A

ISSUED 3/10/2025

### Inspection Details

Title: Observation of WMATA Track Inspection from North Bethesda to Twinbrook, Track 1

Location: Track 1 A12 (North Bethesda) to A13 (Twinbrook)

Date: 3/7/2025

Time: 7:00am to 11:30am

Unannounced

Non-Risk Based

Functional Area: Track

### Overview

On Friday, March 7, 2025, WMSC Inspectors met with Track and Structures (TRST) Track Inspectors at the office in Shady Grove Yard and received their initial safety briefing for the day. Inspectors selected an inspection team to observe from the four teams scheduled to conduct track inspections that day.

The WMATA/WMSC Inspection Team was assigned to inspect four Shady Grove Yard switches (switches 149, 153, 154, and 157) and then inspect Main Line Track 1 from Shady Grove (A15) to North Bethesda (A12). The WMATA Inspection Team included a Roadway Worker-in-Charge (RWIC), one Track Inspector, and one Supervisor (as an additional Watchman/Lookout). WMSC met the Roadway Worker-in-Charge (RWIC), who provided a safety briefing for the yard switches. The WMATA inspectors along with the WMSC inspectors proceeded across the yard and inspected all four switches.

WMSC Inspectors then took a train to Twinbrook (A13) and had another job briefing on the platform with the WMATA Advanced Mobile Flagger who was assigned to that station. WMSC Inspectors then took a train to North Bethesda (A12) and began their oversight of the track inspection team working in the direction of Twinbrook (A13) on track 1. There was one Foul Time segment at the portal 662+00 to 677+00.

The WMSC team noted all WMATA employees followed all Roadway Worker Protection (RWP) procedures and WMSC Inspectors report the job briefings were well done.



WASHINGTON METRO RAIL SAFETY COMMISSION

After concluding the inspection, the WMSC inspectors conducted a debrief with the WMATA Supervisor in accordance with Program Standard Section 6.F.1.

### Defects and Corrective Actions

WMSC Inspections identify safety issues that may be classified as defects, findings, or recommendations. Findings and recommendations are defined by Program Standard Section 5.E.2 and 5.E.3 respectively. Ordinarily, issues identified in a WMSC inspection report are classified as defects. Defects are specific safety issues of non-conformance/non-compliance that are identified and that require remedial action.

This inspection did not identify any findings or recommendations and therefore does not require a WMSC Corrective Action Plan in accordance with Program Standard Section 5.E.4.

This inspection did not identify any defects; therefore, WMATA is only required to acknowledge receipt by March 13, 2025.

### Defect Observations and Determinations

During the track inspection, WMATA Inspectors noted some broken clips, but not enough, and not close enough together, to be a defect as defined in the Program Standard. There were some missing third rail coverboards, but the WMATA Inspector confirmed that all of the missing coverboards were previously identified, reported, and work orders are in progress.

### Next Steps

Please respond by **Thursday, March 13, 2025**, to **acknowledge receipt**.



# Investigations

Program Standard Sections 7 and 8







Washington Metropolitan Area Transit Authority  
Department of Safety (SAFE)  
Office of Safety Investigations (OSI)

FINAL REPORT OF INVESTIGATION A&I E23341

Date of Event:	May 21, 2023
Type of Event:	Collision
Incident Time:	06:59 hours
Location:	Metro Center Station
Time and How received by SAFE:	07:08 hours – Mission Assurance Coordinator - (MAC)
WMSC Notification Time:	07:08 hours
Responding Safety Officers:	WMATA: OEP WMSC: None Other: None
Rail Vehicle:	Train ID 613 L6088-6089.6077-6076-6091-6090T
Injuries:	Customer suffered lacerations to their torso.
Damage:	Damaged TWC cable
Emergency Responders:	Metro Transit Police Department (MTPD), District of Columbia Fire and Emergency Services (DCFEMS), Office of Emergency & Preparedness (OEP)
SMS I/A Incident Number:	20230522#108647



750 First St. NE • Ste. 900 • Washington, D.C. 20002

Office: 202-384-1520 • Website: [www.wmsc.gov](http://www.wmsc.gov)

WMSC Commissioner Brief: W-0251 – Collision – Metro Center Station – May 21, 2023

Prepared for Washington Metrorail Safety Commission meeting on January 23, 2024

Safety event summary:

On May 21, 2023, an out of service Silver Line train (no riders on board and not servicing stations as the system was preparing to open) struck a person who had fallen onto the roadway at Metro Center Station. Closed-circuit television reviewed for this investigation shows the person had entered Metro Center Station through a locked entrance gate at 6:00 a.m., when the station was closed. The gate includes narrow vertical openings in its system design that the person was able to maneuver their body through. The person then walked through parts of the station, appearing to be unsteady on their feet, before later falling onto the roadway.

At 6:59 a.m., the Train Operator of Train 613 reported an emergency at Metro Center Station, reporting that their train had struck a person who had been lying on the roadway. The Controller instructed the Train Operator to perform a ground walkaround. The Train Operator stated that they could not. Ground walk arounds are required to check on the condition and location of an injured or possibly injured person, validate the condition of the train and other systems, check for damage, and to otherwise confirm operational conditions. These are required throughout the system. At 7:03 a.m., the Metro Center Station Manager contacted the Rail Operations Control Center (ROCC) using the Emergency Trip Station (ETS) box to report that their radio wasn't working and that they could see the person on the roadway between the train and the wall.

A Rail Controller dispatched an Office of Rail Transportation Supervisor. The Mission Assurance Coordinator notified the Metro Transit Police Department (MTPD) of the event, and the ROCC Assistant Operations Manager requested an emergency response from the District of Columbia Fire and Emergency Medical Services (DCFEMS).

At 7:07 a.m., an MTPD Officer and Station Manager assisted the person who had been struck back to the platform. At 7:09 a.m., with no update regarding the person being removed from the roadway, DCFEMS arrived and established



# Corrective Action Plans

Program Standard Section 9



## WMSC CORRECTIVE ACTION PLAN (CAP)

WMSC-23-C0241

### BACKGROUND

On October 18, 2023, the Washington Metrorail Safety Commission (WMSC) issued a Triennial Safety Audit report of the Roadway Maintenance Machines Program, which resulted in 5 findings and 6 recommendations in compliance with 49 CFR § 674.31.

This Corrective Action Plan (CAP) was approved by WMSC on January 29, 2024, to address the associated finding and corrective action for WMSC-23-C0241.

### CAP ID

WMSC-23-C0241

*Office of Chief Mechanical Officer  
Vehicle Program Services  
Department of Safety*

### FINDING 2

Metrorail is not effectively tracking and mitigating hazards related to RMM maintenance and operations in accordance with its PTASP.

### CORRECTIVE ACTION

Metrorail must train personnel to implement safety management systems principles such as hazard identification, tracking mitigation and monitoring, and must develop, implement, and monitor procedures to ensure that hazards are properly identified and assessed as specified in Metrorail requirements such as the WMATA Transit Agency Safety Plan.



# Corrective Action Plans

- ▶ Corrective Action Plans (CAPs) are developed based on the findings (or recommendations) listed in an audit report or another authority such as an order.
- ▶ From the date of final report issuance, Metrorail has 30 days to provide CAPs for WMSC review.



## WMSC CORRECTIVE ACTION PLAN (CAP)

WMSC-20-C0056

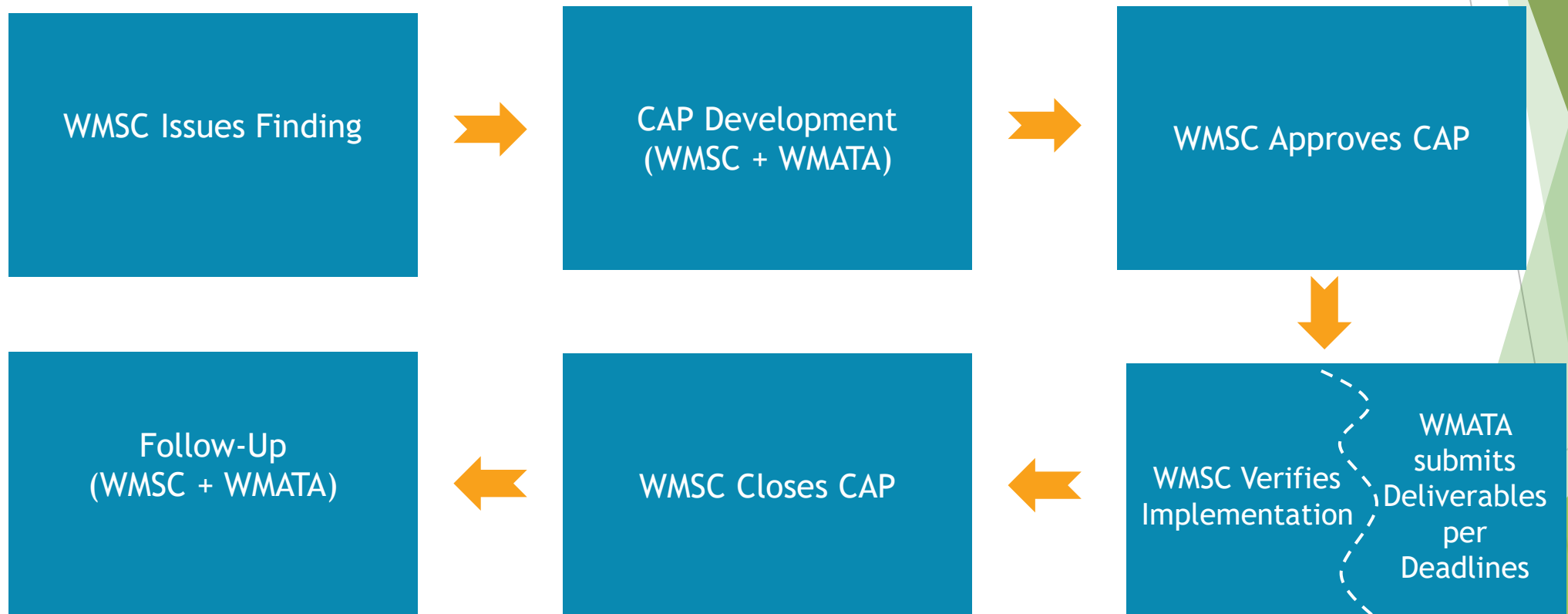
PURPOSE AND SCOPE	On September 8, 2020, the Washington Metrorail Safety Commission (WMSC) issued a safety audit report on the Rail Operations Control Center (ROCC) requiring 21 corrective actions based on extensive interviews with ROCC employees, discussions with Metrorail management, reviews of documents, and other audit work. The audit focused on all ROCC operations, rules, procedures and training, and related sections of the Metrorail Safety Rules and Procedures Handbook (MSRPH). These are integral to WMATA's System Safety Program Plan (SSPP) in effect during this audit (adopted in 2018), which details steps Metrorail takes to ensure the safety of riders, employees, contractors and first responders.			
	This Corrective Action Plan (CAP) is developed to address associated finding and corrective action for WMSC-20-C0056.			
CAP ID	WMSC-20-C0056	Rail Operations Control Center (ROCC)	Undesirable – Management (ESC) Decision.	20
FINDING	Metrorail's ROCC recruitment and retention approach is failing. Some controller trainees have left the ROCC immediately after or shortly after the training course, which is scheduled to last nine months.			
CORRECTIVE ACTION	Metrorail must provide complete transparency during recruitment on the taxing requirements of the job of a controller, use those requirements to target recruitment efforts, and use a team evaluation approach for each candidate with standardized rating metrics during the application and interview process to assure an accepted applicant will likely be a good fit for the controller environment (stress, shifts, etc.). Metrorail must provide upfront transparency about required time commitments, required bonus agreements and any other conditions of employment. Accepted applicants must also be allowed to experience the ROCC environment directly beginning early in the training process in order to have a complete understanding of the job they are expected to do.			
BUSINESS IMPACT	<b>Business Impact – Budget/Cost Estimate: Operating</b> Process Improvement – A current process/procedure needs to be optimized to address the Required Action(s). This type of initiative does not need additional resources because current manpower will be used to improve the process.			

Example CAP from 2020 Rail Operations Control Center Audit





# CAP Lifecycle



constant + frequent communication on issues



# **Safety Certification Oversight**

**Program Standard Section 10**

## **Concurred and Now in Operation**

- Silver Line Phase II
- Potomac Yard Station
- Automatic Door Operation
- Maximum Authorized Speed/Return to Design Speed
- Automatic Train Operation on the Red Line

## **Pending Projects**

- Automatic Train Operation on other lines
- Automated Wayside Inspection System
- 8000-Series railcars



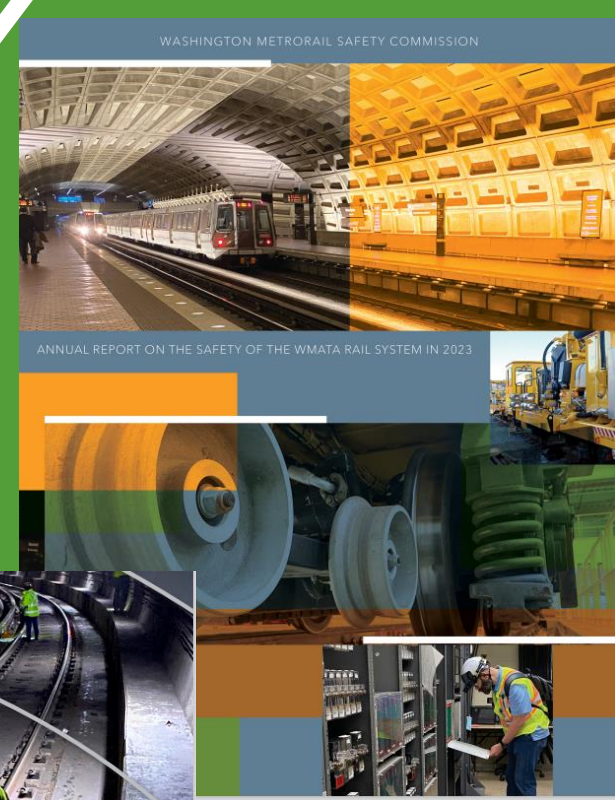
# Safety Certification

- ▶ Underlying philosophy of the safety certification program at Metrorail is to comprehensively identify hazards and evaluate the probability and severity of each hazard
- ▶ Mitigate those hazards based on Metrorail's safety risk assessment methodology
- ▶ Performed during the design, construction, testing and commissioning of a project to prevent hazards from resulting in safety events
- ▶ Performing this safety certification work is Metrorail's responsibility
- ▶ The WMSC concurs that Metrorail has appropriately completed its safety certification process
- ▶ If the WMSC has selected a project for in-depth safety certification review, it cannot be placed in revenue service until the WMSC issues its concurrence



# ANNUAL REPORTS

- ▶ Annual Report on the Safety of the WMATA Rail System
- ▶ Annual Report of the WMSC Operations
- ▶ Yearly Independent Financial Audit Report of the WMSC





## **Passenger Rail Law Workshop**

**Commuter Rail Coalition / Kaplan Kirsch LLP**

# **Security Issues and Legal Challenges**

Senior Associate General Counsel  
Jared Garth

November 13, 2025

# Duty of Care & Assaults

- What is our duty of care to keep passengers safe from other passengers?
- What are reasonable steps for screening railroad passengers?
- What conduct is foreseeable?
- What legislation might would help protect passengers and employees?

## Sample Passenger Case

*Breonna Aaron v. NRPC et al (Western Dist. Missouri 22 CV-00189)*  
*Jury trial*



# Amtrak Passenger Screening

- 430 Amtrak Police Department (APD)- sworn railroad police officers who cover over 500 stations
- APD Canine explosive and narcotics detection program
- Date of Birth requirement during reservation process
- TSA, DEA, and local LEA cooperative agreements
- Passenger barring process



# Federal Employee Liability Act (FELA)

## Title 45 U.S.C Sec. 51

- Railroad duty to provide a reasonably safe workplace
- Non-delegable duty of care
- Reasonably safe depends on dangers associated with type of work
- Are the dangers foreseeable?
- Plaintiff can file in state court
- Contributory negligence/comparative fault (jury can assign a percentage to the parties)



# Federal Employee Liability Act (FELA)

## Sample case

*Carmen Jones/Tiffany Wright v. NRPC* (Pima Co. Superior Ct. Case C202223790)

- 10/04/2021 DEA/Tucson Police HDTA Task Force officer involved shooting in Tucson during a drug interdiction of the Sunset Limited. DEA SA Mike Garbo is killed and two other officers seriously injured
- Subject wanted out of California commits suicide. FBI investigates the case. Co-defendant prosecuted and pleads to a 10-year sentence.
- Plaintiffs in FELA case were on-board service employees and claims injuries from the incident.

# Challenges and possible solutions to mitigating risks associated with crime on board Amtrak trains.

- MOUs and Indemnification with other law enforcement agencies. We can address operating procedures and protocols.
- What about the Anti-Deficiency Act ?
- Training local law enforcement and first responders.
- DHS Rail Safe Grant program

# 115<sup>th</sup> Congress (2018) S 2861

## Passenger Rail Crew Protection Act

Would have made it a federal crime to assault a passenger train crew member (conductor, engineer, on board service member)

Would have amended Title 49 so that passenger rail crews have the same federal protection as commercial airline staff

What about special jurisdiction ?

Objections from interested groups

# Human Trafficking

Trafficking Victims Protection Act of 2022

Title 22 U.S.C. Sec. 7105

Passenger Railroads and Bus Carriers must place visible Hotline Contact information in:

- Train and Bus Stations and commercial airports
- On board Restrooms on buses and passenger trains



Are YOU being...  
**ABUSED?**  
**TRICKED?**  
**COERCED?**  
**FORCED?**

**SCAN  
THIS**



If you or someone you know needs help, call the  
National Human Trafficking Hotline at 1-888-373-7888  
If you are in immediate danger or believe you have  
witnessed human trafficking, contact the Amtrak  
Police Department by approaching a uniformed  
officer, calling 1-800-331-0008, texting  
to APD11 (27311) or call 911.



ID#-106-00528-I-N5

300045

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# APD Human Trafficking Working Group (HTWG)

Department of Transportation (DOT)

Department of Homeland Security (DHS)

Federal Bureau of Investigation (FBI)

Homeland Security Investigations (HSI)

Federal Railroad Administration (FRA)

Truckers Against Trafficking

A21

TwentyFour-Seven, Inc.

United Against Slavery

National Child Protection Task Force

The h3 Project

National Center for Missing and Exploited Children

# Amtrak Training

APD HTWG and A21 partnered to to create the Counter-Trafficking Toolkit for APD Officers.

Starting in 2023, APD HTWG, DOT and DHS partnered to deliver in-person training to frontline Amtrak employees.

Starting in 2025. APD HTWG developed a new human trafficking awareness training program in partnership with Amtrak Human Resources that was rolled out as mandatory training for all Amtrak employees.

# **PASSENGER RAIL LAW WORKSHOP**

**November 13, 2025**

Laura Kilgarriff, Associate, Kaplan Kirsch, LLP



# Rail Security Overview

- **Authority** – Transportation Security Administration (TSA) has authority to protect all modes of transportation, including rail pursuant to the *Aviation and Transportation Security Act* (2001)
  - *Homeland Security Act of 2002* transferred TSA from Department of Transportation (DOT) to Department of Homeland Security (DHS)
- **Owner/Operator Responsibility** – Responsibility for carrying out safety and security measures for passenger rail falls primarily on owners /operators
- **TSA Responsibility** – (1) Conducts assessments to address security vulnerabilities and (2) shares best practices and intelligence information
- **VIPR Support** – TSA has authority to develop Visible Intermodal Prevention and Response (VIPR) teams to augment the security in any mode of transportation; not funded FY25

# Standards, Best Practices, and Assessments

- **BASE Assessment** – Voluntary, comprehensive review of security programs to enhance threat prevention and protection and increase response preparedness
  - TSA conducts assessment and provides report and recommendations considering: (1) Security Plan or Emergency Response Plan; (2) employee knowledge and preparedness; and (3) background investigations on employees/contractors
- **Amtrak Threat Assessment** – Beginning 2021, TSA [assessed](#) historical passenger data to determine extent to which known or suspected terrorists may have traveled on Amtrak trains pursuant to assessment authority (49 U.S.C. § § 114(f)(2) and (15))
- **Resources** – TSA provides training courses and materials on its [website](#); other materials available following inquiry

# Information and Funding

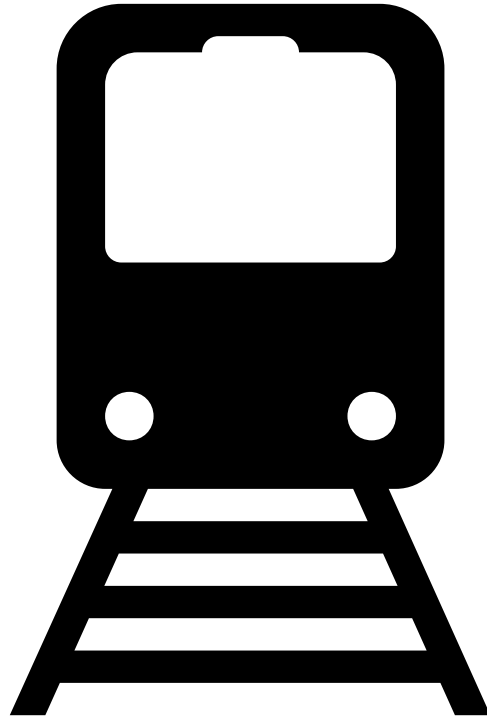
## Information Sharing – TSA distributes intelligence reports to passenger rail owners/operators

- Shares information through field intelligence officers and the Homeland Security Information Network (HSIN)
- October 2022, established Surface Information Sharing Cell to share threat information with key surface stakeholders

## Grants – funding awarded based on a multi-agency recommendation, including TSA and FEMA, to DHS Secretary

- Transit Security Grant Program. Passenger rail funding (*DHS Appropriations Act of 2005; Implementing the Recommendations of the 9/11 Commission Act of 2007*)
- Intercity Passenger Rail Security Grant Program. Amtrak funding to support operational activities, site hardening, training and other activities that secure Amtrak's system (*9/11 Act*)

# Security Requirements



- **Surface Transportation Security Training Rule (March 2020)**
  - Requires owner/operators of higher-risk freight railroad carriers, public transportation agencies (including rail mass transit), and passenger railroad carriers to provide TSA-approved security training to employees who perform security-sensitive functions
- *Implementing Recommendations of the 9/11 Commission Act of 2007*



# Security Requirements (cont'd)

- **Cybersecurity Security Directives**

- Following the 2021 Colonial Pipeline ransomware incident, TSA issued a series of Security Directives requiring railroad and other infrastructure entities to implement cybersecurity measures
- *Trunk Corp. v. Transp. Sec. Admin.* (Aug. 21, 2025) – 7<sup>th</sup> Circuit held that ongoing cybersecurity threats from foreign adversaries constitute an "emergency" within the meaning of 49 U.S.C. § 114(l)(2), justifying bypassing of notice-and-comment rulemaking

- **Cybersecurity Rulemaking**

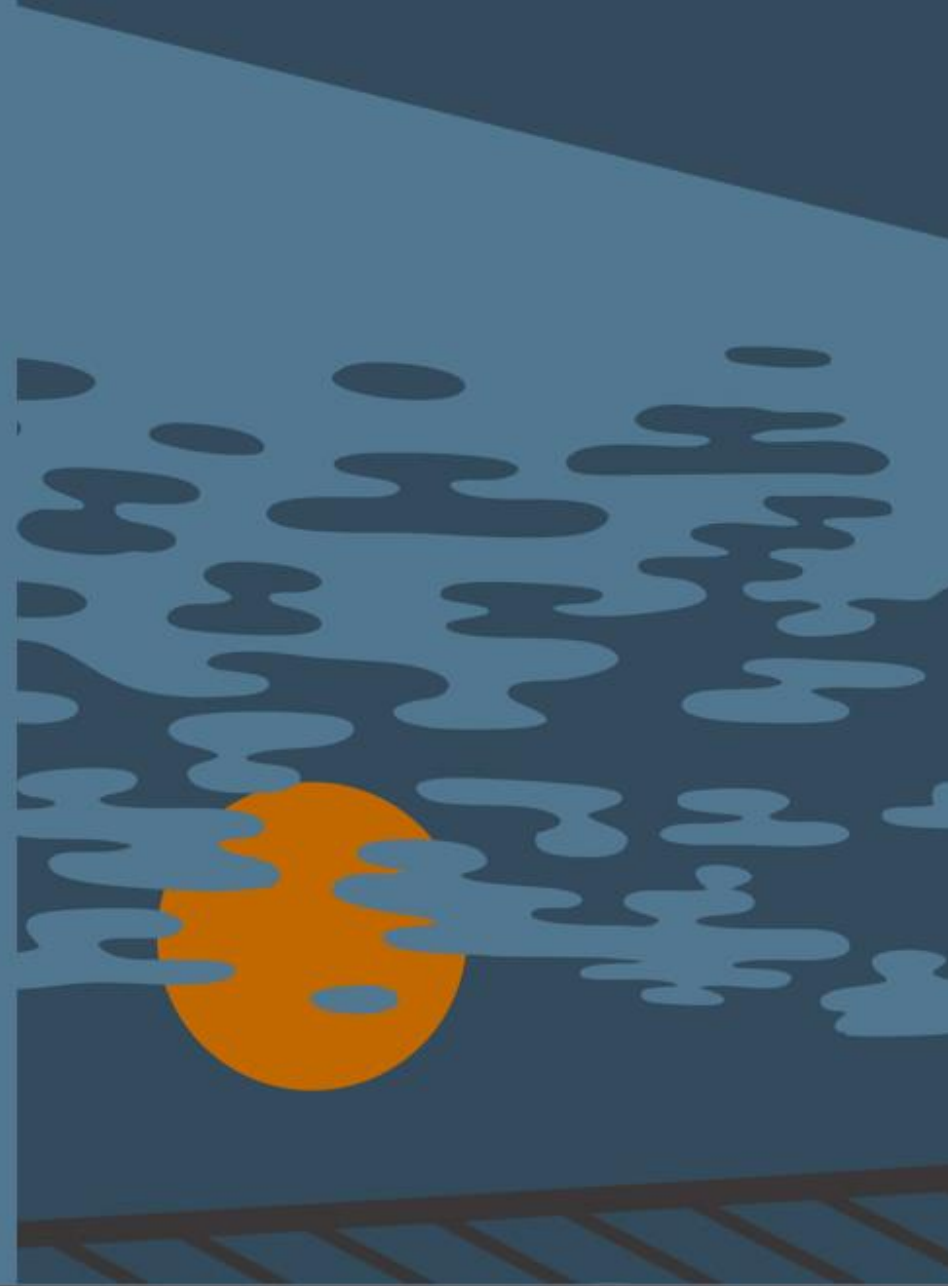
- Nov. 7, 2024, TSA issued Notice of Proposed Rulemaking which would codify and expand the previous security directives

# Human Trafficking – Federal Support

- **DHS Center for Countering Human Trafficking** – Led by Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI)
  - Support includes intelligence, subject matter expertise, and human trafficking investigations worldwide
- **DOT** – Provides rail industry [resources](#) to counter human trafficking in English and Spanish, including key indicators, graphics, posters, and infographics



# Questions?



KAPLAN KIRSCH

# Thank You!