

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

FIRST TRANSIT RAIL  
ADVISORY COMMITTEE for SAFETY  
(TRACS) MEETING  
U.S. DEPARTMENT OF TRANSPORTATION

THURSDAY, SEPTEMBER 9, 2010  
9:00 -- 5:00 p.m.

ATKINSON-BAKER, INC.  
COURT REPORTERS  
Telephone: 1-800-288-3376  
www.depo.com

REPORTED BY: DONNA M. LEWIS, RPR

FILE NO: A408235

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

FIRST TRANSIT RAIL  
ADVISORY COMMITTEE for SAFETY  
(TRACS) MEETING  
U.S. DEPARTMENT OF TRANSPORTATION

THURSDAY, SEPTEMBER 9, 2010  
THE RENAISSANCE WASHINGTON, D C  
DOWNTOWN HOTEL  
999 NINTH STREET N W  
WASHINGTON, D C 20001

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

BEFORE BOARD COMPOSED OF THE FOLLOWING:

MIKE FLANIGON, TRACS Chairman  
Director Office of Safety and Security  
Telephone: (202) 366-0235  
Email: Mike.Flanigon@dot.gov

WILLIAM BATES,  
AMTRAK AND UNITED TRANSPORTATION UNION  
Region: VA/SO (MID-A)  
1307 Brookland Parkway,  
Richmond, VA 23227  
Telephone: (804)920-0691  
Email: Sonywill12@verizon.net

BERNADETTE BRIDGES,  
MARYLAND TRANSIT ADMINISTRATION (MDTA)  
Region: MD/SO (MID-A)  
5602 Birchwood Avenue,  
Baltimore, MD 21214  
Telephone: (410)454-7145  
Email: bbridges1@mta.maryland.com

ERIC CHENG,  
UTAH DEPARTMENT OF TRANSPORTATION (UDOT)  
Region: UT/W  
1639 East Shadow Cove,  
Salt Lake City, UT 84121  
Telephone: (801)965-4284  
Email: echeng@utah.gov

RICHARD W. CLARK,  
CALIFORNIA PUBLIC UTILITIES  
COMMISSION (CPUC)  
Region: CA/W  
505 Van Ness Avenue  
Room 2205  
San Francisco, California 94102  
Telephone: (415)703-2349  
Email: richard.clark@cpuc.ca.gov

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

BOARD PARTICIPANTS: (Continued)

DIANE DAVIDSON,  
OAK RIDGE NATIONAL LAB (OAKRIDGE)  
Region: TN/SO  
2360 Cherahala Boulevard  
Room J-16,  
Knoxville, TN 37932

JAMES M. DOUGHERTY  
WASHINGTON METROPOLITAN AREA TRANSIT  
AUTHORITY (WMATA)  
Region: DC/SO (MID-A)  
600 Fifth Street, N W  
Washington, D C 20001  
Telephone: (202)962-2297  
Email: Jmdougherty01@comcast.net

DAVID GENOVA,  
REGIONAL TRANSPORTATION DISTRICT (RTD)  
Region: CO/W  
1600 Blake Street,  
Denver, CO  
Telephone: (303)628-9000  
Email: David.Genova@rtd-denver.com

GEORGETTA GREGORY  
METROPOLITAN ATLANTA TRANSPORTATION  
RAPID TRANSIT AUTHORITY (MARTA)  
Region: GA/SO  
2424 Piedmont Road, NE  
Atlanta, GA 30324-3311  
Telephone: (404)848-3112  
Email: Ggregory@itsmarta.com

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

BOARD PARTICIPANTS: (Continued)

WILLIAM GRIZARD  
AMERICAN PUBLIC TRANSPORTATION  
ASSOCIATION (APTA)  
Region: DC/SO (MID-A)  
1666 K Street, NW  
11th Floor  
Washington, D C 20006  
Telephone: (202)496-4800  
Email: wgrizard@apta.com

LEONARD HARDY  
BAY AREA TRANSIT AUTHORITY  
Region: CA/W  
1000 Froyd Road  
Concord, CA 94521  
Telephone: (510)874-7426  
Email: Lhardy@bart.gov

HENRY HARTBERG  
DALLAS AREA RAPID TRANSIT  
Region: TX/SO  
P.O BOX 660163  
Dallas, TX 75266-7244  
Telephone: (214)749-3150  
Email: HHartber@dart.org

RICK INCLIMA  
BROTHERHOOD OF MAINTENANCE OF WAY  
EMPLOYEES DIVISION (BMWED)  
Region: DC/SO (MID-A)  
25 Louisiana Avenue, NW  
7th Floor  
Washington, D C 20001  
Telephone: (202)508-6449  
Email: Ricki@bmwewash.org

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

BOARD PARTICIPANTS: (Continued)

JACKIE JETER  
AMALGAMATED TRANSIT UNION  
Region: DC/SO (MID-A)  
2701 Whitney Place,  
Forestville, MD 20747  
Telephone: (301)568-6899  
Email: JackieJeter@atulocal689.org

AMY S. KOVALAN  
CHICAGO TRANSIT AUTHORITY (CTA)  
Region: IL/MW  
P. O. Box 7567  
Chicago, IL 60680-7567  
Telephone: (312)681-2830

RICHARD KRISAK  
METROPOLITAN ATLANTA TRANSPORTATION  
RAPID TRANSIT AUTHORITY (MARTA)  
Region: GA/SO  
2424 Piedmont Road, NE  
Atlanta, GA 30324-3311  
Telephone: (770)559-4658  
Email: Rkrisak@itsmarta.com

PAMELA McCOMBE  
GREATER CLEVELAND REGIONAL TRANSIT  
AUTHORITY (GCRTA)  
Region: OH/MW  
1240 West 6th Street,  
Cleveland, OH 44113-1331  
Telephone: (216)566-5100 Ext. 5279  
Email: Pamelamccombe@sbcglobal.net

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

BOARD PARTICIPANTS: (Continued)  
ALVIN H. PEARSON  
MEMPHIS AREA TRANSIT AUTHORITY (MATA)  
Region: TN/SO  
296 Lawndale Drive,  
Nashville, NT 37211  
Telephone: (615)406-2122  
Email: Apearson@MATATRANSIT.com

ED WATT,  
TRANSPORT WORKERS UNION of AMERICA (TWU)  
Region: NY/NE  
1700 Broadway, 2nd Floor,  
New York, NY 10019  
Telephone: (212)259-4900  
Email: EWatt@TWU.org

JIM SOUTHWORTH,  
Chief of Railroad Division  
National Transportation Safety Board

ALSO PRESENT:

SECRETARY RAY LaHOOD

PETER ROGOFF

TOM PRENDERGAST,  
METROPOLITAN TRANSPORTATION  
AUTHORITY (MTA)  
Region: NY/NE  
347 Madison Avenue,  
New York, New York 10017-3739

JOHN PORCARI,  
Deputy Secretary of Transportation

BOARD PARTICIPANTS: (Continued)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

DEPUTY ASSOCIATE ADMINISTRATOR,  
OFFICE OF PROGRAM MANAGEMENT  
Telephone: (202)366-5122  
Email: Sean.Libberton@dot.gov

DORVAL CARTER

LINDA FORD  
ACTING DEPUTY DIRECTOR,  
OFFICE OF CIVIL RIGHTS  
Telephone: (202) 366-1674  
Email: Linda.Ford@dot.gov

HONORABLE ROBERT L. SUNWALT,  
Board Member National Transportation  
Safety Board

ANTHONY FAZIO,  
FEDERAL AVIATION ADMINISTRATION

EARL CARNES,  
DEPARTMENT OF ENERGY

ROBERT ADDUCI  
VOLPE CENTER, RVT-62  
U.S. DEPARTMENT OF TRANSPORTATION  
55 Broadway  
Cambridge, MA 02142-1093  
Telephone: (617)494-2251  
Email: Robert.j.adduci@dot.gov

1 P-R-O-C-E-E-D-I-N-G-S

2 MR. FLANIGON: Let's go around the table  
3 briefly with the committee, starting with  
4 Mr. Pearson to just do self-introductions. If you  
5 could just state your name and your position and  
6 the organization that you are with.

7 MR. PEARSON: I'm Alvin Pearson. I'm  
8 the assistant general of operations for the  
9 Memphis Area Transit Authority in Memphis,  
10 Tennessee.

11 MR. DOUGHERTY: Good morning, Jim  
12 Dougherty, chief safety officer, Washington  
13 Metropolitan Transit Authority, WMATA, Metro here  
14 in Washington, D.C.

15 MS. McCOMBE: Good morning. My name is  
16 Pamela McCombe, and I'm the director of safety for  
17 the Greater Cleveland Regional Transit Authority.

18 MR. CHENG: Good morning. My name is  
19 Eric Cheng from Utah Department of Transportation,  
20 (inaudible).

21 MR. CLARK: Good morning. I'm Richard

1 Clark, the director of Consumer Protection and  
2 Safety at the California Public Utilities  
3 Commission.

4 MR. KRISAK: Rich Krisak, I'm with  
5 MARTA. I'm the HM of rail operations and  
6 development.

7 MS. GREGORY: Georgetta Gregory. I'm  
8 with MARTA also as the HM of safety and quality  
9 assurance.

10 MR. HARTBERG: Henry Hartberg, senior  
11 manager operations safety for Dallas Area Rapid  
12 Transit.

13 MR. HARDY: Len Hardy with the  
14 San Francisco Bay Area Rapid Transit District.

15 MS. BRIDGES: Bernadette Bridges,  
16 director of safety for the Maryland Transit  
17 Administration.

18 MR. PRENDERGAST: Tom Prendergast,  
19 president of the New York Transit, sitting in for  
20 Linda Kleinbaum from the Metropolitan  
21 Transportation Authority.

1 MR. INCLIMA: Good morning. Rick  
2 Inclima director of safety, Brotherhood of  
3 Maintenance of Way Employes division of the  
4 Teamsters Rail Conference.

5 MR. SOUTHWORTH: Jim Southworth, chief  
6 of the railroad division, National Transportation  
7 Safety Board.

8 MS. KOVALAN: Amy Kovalan, the chief  
9 safety and security officer at the Chicago Transit  
10 Authority.

11 MS. JETER: Jackie Jeter, president of  
12 the ATU Local 689 here in Washington D.C.

13 MR. WATT: Ed Watt, director of health  
14 and safety, Transport Workers Union.

15 MR. BATES: Good morning, William Bates,  
16 United Transportation Union, District of Columbia,  
17 legislative director.

18 MR. GENOVA: Good morning, David Genova.  
19 I'm the assistant general manager of safety and  
20 security for a regional transportation district in  
21 Denver.

1 MS. DAVIDSON: Good morning. I'm Diane  
2 Davidson, Oakridge National Laboratory. I'm the  
3 director of the Center for Transportation  
4 Analysis.

5 MR. GRIZARD: Good morning, everyone,  
6 Bill Grizard. I'm the director of safety for  
7 American Public Transportation Association.

8 MR. FLANIGON: Thanks very much. We  
9 have really assembled an impressive group, and we  
10 want to thank you for being here with us today.

11 Now John Porcari, Deputy Secretary of  
12 Transportation would like to make a few opening  
13 remarks.

14 MR. PORCARI: Thank you. First of all,  
15 on behalf of Secretary LaHood, who will be here  
16 momentarily, and Administrator Peter Rogoff,  
17 thanks for doing this. This is really important.

18 At the Department of Transportation, we  
19 say safety is our top priority. That is just not  
20 a slogan. One of the first actions that Secretary  
21 LaHood took after coming in as Secretary was to

1 set up an intermodal safety council that included  
2 the chief safety officers and the modal  
3 administrators from the entire Department, all 10  
4 modes.

5 That was a way that we could work on a  
6 common safety agenda to make sure our research,  
7 our data gathering and our regulatory activities  
8 were all geared towards some of the most important  
9 safety issues that we have. And clearly across  
10 the mode, whether you are in a cockpit or you are  
11 an operator of a transit vehicle or driving your  
12 car, things like distraction and fatigue are  
13 crosscutting issues. They are very important. So  
14 the safety council was set up to do exactly that.

15 The first official action that the  
16 safety council took, actually, was to endorse this  
17 transit safety legislation that is currently  
18 pending before the Congress. I think from my  
19 perspective, it is a unique historical oversight  
20 that the Federal Transit Administration is  
21 explicitly prohibited from having the kind of

1 active safety role that I think would serve the  
2 industry and our transit properties as well.

3 We seek to correct that. You will hear  
4 from Secretary LaHood that he feels very  
5 passionately about this. And that going forward  
6 in a partnership with TRACS right in the center of  
7 this effort, we aim to take an already very safe  
8 transportation mode and make it as safe as  
9 possible.

10 One of the confidence building measures  
11 that we can have to build ridership and to make  
12 transit a true transportation term in the future  
13 is to make these very visible, very specific, very  
14 concrete gains in safety. We can't do that  
15 without the kind of input that TRACS will give us.

16 And, so, going forward after the kick  
17 off today, we ask for your active participation in  
18 the group, we would -- we are looking for your  
19 very specific feedback as part of it. And as you  
20 are interacting with the colleagues throughout the  
21 industry, we need to make sure that you are

1 bringing forward the viewpoints of the industry.  
2 What I can guarantee you is that the transit  
3 safety input that you provide will be go directly  
4 to the Administrator, myself and the Secretary as  
5 something we take very seriously, and the goal is  
6 nothing less than to make our transit operations  
7 in the United States the safest in the world.

8 And one of the interesting sidelights  
9 that we found through this process is that there  
10 is not very good data throughout the world on  
11 transit safety. The data gathering part of it  
12 will be an important part of our activities.

13 So, with that as an introduction and  
14 with impeccable timing is Secretary LaHood and  
15 Administrator Rogoff are here this morning. And  
16 let me introduce first Administrator Peter Rogoff  
17 to introduce the Secretary. Peter.

18 (Applause)

19 MR. ROGOFF: Good morning. I thank  
20 everybody. I'm going to introduce the Secretary,  
21 and the Secretary will make some remarks, and I

1 will make follow-up remarks.

2 Let me first thank you all for being  
3 here, thank you all for volunteering to provide  
4 your expertise and your service to this important  
5 advisory committee. We are very pleased this  
6 morning to have as an opportunity to kick off the  
7 inaugural meeting of TRACS with Secretary Ray  
8 LaHood.

9 I can tell you in the 21 years of  
10 dealing with federal transportation policies, we  
11 have had a great many secretaries who have said  
12 that safety is their number one priority. We now  
13 have one that truly lives and breaths it every day  
14 in every question that comes before us in any  
15 mode, and his presence here is indicative of the  
16 leadership that he has brought to this issue, and  
17 the importance that he personally attaches to it.  
18 And that that importance and that message is fused  
19 down to each of the modes and each of the  
20 employees working in the modes.

21 Secretary LaHood has been nothing but

1           supportive of the overall transit industry, the  
2           overall drive of the President to use public  
3           transportation as an opportunity to improve the  
4           liveability of Americans, to improve the air we  
5           breath, to improve the environment that we leave  
6           to our kids, to improve mobility and relieve  
7           congestion. And I personally want to thank him  
8           for the leadership that he has brought not just to  
9           public transportation in general, but also to his  
10          public transportation safety challenge that we  
11          have taken on so vigorously under his leadership.

12                        So, with that, I will just say thank you  
13          once again and ask you to welcome Ray LaHood.

14                        (Applause.)

15                        SECRETARY LaHOOD: Thank you all for  
16          coming to Washington and participating in this  
17          meeting. I think all of you know that over the  
18          last 18 months that we have had this job, we have  
19          promoted safety. It is our number one priority.  
20          It is not just words that we say. We have  
21          conducted ourselves, I think, in a way that has

1 shown that safety really is our priority.

2 After the terrible crash in Buffalo,  
3 New York, Randy Babbitt, our FAA Administrator,  
4 took it upon himself to travel the country and  
5 hold 12 safety summits. We have a very strong  
6 enforcement, what we call rule pending now at OMB  
7 to try and deal with some of the safety concerns  
8 that were expressed by the NTSB and others as a  
9 result of that crash. After the WMATA crash here  
10 in Washington. It sparked our interest in  
11 wondering why we had not played more of a role in  
12 safety when it came to WMATA and other transit  
13 organizations. And for me personally discovered  
14 that the law prohibits us from doing that. You  
15 know, how insane is that to think that the agency  
16 that has some responsibility for transit all over  
17 the country has no responsibility for the safety  
18 of the people that ride the trains and buses?

19 So we think what you all are doing is  
20 absolutely critical to our mission, our safety  
21 mission. And I was more than stunned when I had

1 the privilege of sitting up on the dais, I guess,  
2 or the platform on the day that President Obama  
3 was sworn in and saw 2 million people. I had been  
4 to other inaugurations, but I never been to one  
5 where 2 million people showed up.

6 But most extraordinary for me is that  
7 all of those people were delivered around  
8 America's city by America's transit, WMATA. And  
9 people who work for WMATA have to be very proud of  
10 what they did to deliver all of those people, all  
11 over this region, during that 2- or 3-day  
12 celebration.

13 And I think about that and then I think  
14 about what you all do in your own opportunities to  
15 deliver people. The one thing that people want  
16 from their bus system, their light rail system,  
17 their streetcar system, their transit system is to  
18 make sure when they get on it that they are safe.  
19 You know that.

20 I mean, that is the one thing people  
21 take for granted when people board an airplane,

1 when they get on a bus, when they get in a car.  
2 The one thing that they want is that it will be  
3 safe, that the equipment is the right equipment,  
4 that it is equipment that is safe, and that people  
5 are driving these machines and modes of  
6 transportation are well trained.

7 And, so, everything that we have done  
8 for the last 18 months, whether it is trains,  
9 planes or automobiles, has revolved around safety.  
10 In a few weeks we are going to have a second  
11 distracted driving summit. And we are on a  
12 rampage about the idea that distracted driving is  
13 a real epidemic in America.

14 The reason it is an epidemic is because  
15 about every American, just about 100 percent have  
16 cell phones. And anybody who has had a cell phone  
17 and has a driver's license, has used their cell  
18 phone while driving, you cannot drive safely and  
19 use a cell phone, you cannot drive safely and  
20 text, you cannot drive a train safely while you  
21 are texting or an airplane.

1                   You saw what happened to those two  
2 pilots who overshot Minneapolis because supposedly  
3 they were on the computer. You have seen what  
4 happened in other areas of the country where train  
5 drivers think they can drive a train safely or a  
6 bus safely and text and drive, you can't do it.  
7 So, we are going to continue that.

8                   The one thing that is very important to  
9 us is that Congress passes safety legislation.  
10 Peter has done a great job on this. Peter Rogoff.  
11 And I think those of you who now have worked with  
12 Peter know he has really done a great job as our  
13 Administrator. He really has. He is very serious  
14 about this job. Right after the WMATA crash, he  
15 and I talked about the idea that we didn't have  
16 the responsibility for safety. And so Peter and  
17 his staff, along with some staff that he was  
18 acquainted with on Capitol Hill, put together, we  
19 think, a very good safety bill, safety transit  
20 bill.

21                   And because of the good relationships

1           that Peter has on the Senate side, Senator Dodd  
2           voted out of his committee on a voice vote our  
3           transit safety bill. So now today we are sending  
4           a letter to the leadership of the Senate, Senator  
5           Reid and Senator McConnell, asking to consider  
6           that bill on the Senate floor. We think it is  
7           important.

8                     If they do that before they break for  
9           the election, it will send a very clear message  
10          that we are serious about this, and that Congress  
11          is serious about it, and that we take seriously  
12          the responsibility that people have to get around  
13          safely. So, we are going -- we are going to press  
14          the Senate very hard on this and see if we can see  
15          if we can get this done.

16                    If we get it done, we have a commitment  
17          from the House leadership to get it done in the  
18          House, too. I mean, frankly, we would like to see  
19          this bill signed by President Obama within the  
20          next few days, few weeks before Congress leaves  
21          for the election. Whether that is possible or not

1 time will tell.

2 So, thank you for what you all do for  
3 the American people, for people that want to ride  
4 buses or trains or light rail or whatever, and we  
5 are grateful to you for serving -- for the advice  
6 that you will give us and for the help that you  
7 will give us in our work to make public  
8 transportation the safest that it can be.

9 And Peter said I should maybe see if any  
10 of you have any questions or comments you want to  
11 ask either of us or John, too. So anybody have  
12 anything you would like to say, any questions?

13 Well, no questions about, is there more  
14 money can we get more operating funds?

15 (Laughter.)

16 MR. PEARSON: Funding is a question.  
17 But understanding the crises that we are in as far  
18 as the country itself, one of the key factors that  
19 we face every day as far as enforcing safety would  
20 be getting top officials to understand that it is  
21 not a federal mandate but it is a mandate of

1 operation in general.

2 And to change that, funding would be of  
3 help, but also education and dedication from the  
4 regional levels. In the state of Tennessee, I  
5 feel that the state SSO person knows more about  
6 safety than the actual FTA people in Atlanta,  
7 Georgia.

8 Now, after talking with them, they are  
9 going to attend the SSO meeting that is going to  
10 be held in Memphis, and it is a little difficult  
11 at times that you try to enforce issues and you  
12 don't have support from the top.

13 SECRETARY LaHOOD: I think you make a  
14 good point, and part of it is -- and I will let  
15 Peter comment on this, too -- I think part of it  
16 is the law says that we cannot be involved in  
17 this. And, so, I think there has probably been a  
18 mind-set, I suspect, at the FTA and at DOT that  
19 since the law inhibits us from doing this, that we  
20 have not really pressed our people to do it.

21 But I think our people know now, coming

1 from me and Peter and others, that safety is a big  
2 concern and a priority. And I think if people  
3 look at the legislation that we have crafted with  
4 our friends on Capitol Hill, you will see that we  
5 are serious about this. But I think there has  
6 been sort of a mind-set over time, because the law  
7 has not allowed us to do this.

8 MR. ROGOFF: Well, the thing I want to  
9 add, I think importantly, I hear what you are  
10 saying. And precisely because the FTA has not  
11 been in the safety business, we have a very good  
12 safety team but a very lean and very small safety  
13 team within the FTA.

14 Obviously -- and I have had a number of  
15 conversations with Bill Millar (phonetic) about  
16 this, too, our challenge is to raise everybody's  
17 game, and that includes the FTA's game. Right  
18 now, you are right, we do not have safety  
19 designated experts in our regions. That is true  
20 in Region 4 in Atlanta as well as Region 5 in  
21 Chicago.

1                   But our goal, as we stand up in the  
2                   regime and as we take the guidance of this group,  
3                   is to build our resources within the FTA to bring  
4                   that expertise on, and also to build the resources  
5                   within the state partners and help fund those  
6                   state partners in a way we have not in the past,  
7                   so they can do a better job. And I am talking  
8                   specifically about the SSOs. And importantly and  
9                   Bill Millar has been very articulate about this,  
10                  and I think he's right, although it is not  
11                  necessarily a cornerstone of our legislation, we  
12                  need to commit some resources to raising the level  
13                  of expertise and attention of the operators  
14                  themselves.

15                  It cannot just be about regulations and  
16                  enforcement. It needs to be able to, especially  
17                  with the retiring work force, where we -- the work  
18                  force that is retiring in increasing numbers that  
19                  we have the ability and the transit operator  
20                  themselves have the ability to raise their game  
21                  with everybody else. But in the end, they are the

1           ones transporting the passengers. They are the  
2           ones charged with protecting the workers. That is  
3           where the rubber meets the road, and that is where  
4           we need to put our efforts.

5                   MR. PEARSON: Well, one of the key  
6           points that we are trying to make in our operation  
7           is that it is no such thing as an unfunded mandate  
8           when it comes to safety. So, we are just trying  
9           to work on taking the funds from whatever  
10          resources we have to make sure that we not only  
11          say safety is first, but we mean that safety is  
12          first.

13                   SECRETARY LaHOOD: That is a very good  
14          thing to say. I like that, that safety really is  
15          so important that, you know, we just -- and we  
16          know that you all get it. And we are trying to  
17          get it, too. And we are trying to get Congress to  
18          give us some pretty big responsibilities here that  
19          we have not had.

20                   We have had it in the rail business. We  
21          certainly have had it in the airline business.

1           And we have had it in the automobile industry side  
2           of things when we give certain ratings to  
3           automobiles for safety and put that out there for  
4           people to see. So it seems logical to us, but we,  
5           the value of this meeting is to learn from all of  
6           you, who do take safety as a number one priority.

7                        Yes, sir.

8                        MR. SUNWALT:     I'm glad you mentioned  
9           the automobile industry, because it brings a  
10          metaphor to the point that I want to make. You  
11          know, many, many years ago, the automobile  
12          industry fought the air bag and seat belt lobby.  
13          And today they claim it and it makes money for  
14          them, because they have not only front air bags  
15          but side air bags, and they will have top and  
16          bottom air bags or whatever would be safer.

17                       Many consensus-driven groups, like I  
18          hope this one becomes, deal with minimum  
19          standards. And until safety equals money, as in  
20          the mentioned example, you are not going to have  
21          safety. So perhaps the challenge here is how do

1           you incentivize rail transit providers to go  
2           above? And since you do have the purse strings  
3           and there is reauthorization pending, perhaps you  
4           can ingrain that incentive.

5                         SECRETARY LaHOOD: Well, look at the  
6           WMATA crash occurred, and it was reported that  
7           they were going to look to us to help them find  
8           some money to replace aging infrastructure,  
9           namely, their cars. You know, one of the things  
10          that we decided very quickly was, give us the  
11          safety plan first, and then we will figure out how  
12          much money it takes to implement the safety plan.

13                        The money should not come first. Safety  
14          should come first. I take your point on this. It  
15          is a good point, but we want to make sure that  
16          safety is the number one priority, and then if we  
17          can incentivize that some way we will, obviously  
18          have a role to play why that also.

19                        MR. ROGOFF: Let me make two quick  
20          points on that. What I think about your remarks  
21          is two things: One, safety is a very high

1 priority. It is one of the few articulated  
2 priority goals of this administration as put out  
3 by the Secretary's strategic plan.

4 State of good repair is another. And if  
5 you look at FTA's budget for 2011 currently being  
6 debated in Congress, we have observed the largest  
7 formula increase that we have under a fairly new  
8 budget strictly for state of good repair  
9 investments. And I think you are going to  
10 continue to see either budgets coming out of this  
11 administration a priority on state of good repair  
12 funding.

13 In fact, in the announcement that the  
14 President made on Monday, as you look through the  
15 fact sheet in which he describes the transit  
16 element of the \$50 billion infusion that he wants  
17 to jump-start authorization with, state of good  
18 repair of the systems is specifically called out.

19 So, we recognize the linkage between  
20 state of good repair -- our state of good repair  
21 goal and our safety goal. The only thing I would

1       add, because I think it is important, you happen  
2       to mention air bags. One of the little known  
3       things about the evolution of air bags is, as you  
4       know, Chrysler was the first vehicle, the first  
5       manufacturer to put an air bag in its minivan.  
6       Mr. Iacocca at the time actually was vociferously  
7       fighting having air bags put in Chrysler vehicles.

8               The reason why Chrysler was the first  
9       manufacturer to put an air bag in its minivan was  
10       they discovered very late in the development of  
11       that model that they were going to fail the  
12       federal standard for frontal crash protection.  
13       The only way they could provide the test dummy  
14       with enough crash protection was to rapidly put  
15       air bag in the vehicle, and that is how they  
16       passed the federal test.

17              The reason I raised that is to point out  
18       what the role of a minimum federal standard is.  
19       It is important and it has ramifications well  
20       beyond that, because that has, as you pointed out  
21       correctly, started a whole impact where some of

1 the manufacturers were competing against each  
2 other as to who could get an air bag in their  
3 vehicle faster.

4 SECRETARY LaHOOD: Anybody else?

5 Yes, sir. Anybody.

6 MR. CLARK: Yes, Mr. Secretary.

7 Peter, nice to see you again.

8 I'm Rich Clark with the California  
9 Public Utilities Commission. We are incredibly  
10 supportive of what you-all are doing in the  
11 legislative. It is such a wonderful step forward.

12 I'm very happy to hear from you, Peter,  
13 about the money and that the President was talking  
14 about that is going for state of good repair  
15 issues. That is just absolutely critical. We  
16 have some of the oldest in the nation of transit  
17 systems that really need this sort of money.

18 Our only concern with the legislation at  
19 this point is that the state preemption issue  
20 seems to have become stronger in the legislation,  
21 as it has come out such that where we are very

1 concern, we would very much like to have  
2 concurrent jurisdiction with you folks over  
3 safety. We feel like we are collaborators. We  
4 think we have done a very good job in California.  
5 And we are very concerned about the preemption  
6 language that is in the bill currently. So, if we  
7 would have the opportunity to talk about that  
8 somewhat, I would greatly appreciate it.

9 MR. ROGOFF: What I would put out on  
10 that is the Administration is building up for its  
11 preemption, as you know, the Senate bill does. We  
12 will continue to have a dialogue with them about  
13 that, as we will with the House.

14 What we think is most important now is  
15 that having had a successful markup in the banking  
16 committee, that the legislation move forward  
17 through its hurdle, and we are going to continue  
18 to have a dialogue both with the banking and the  
19 transportation infrastructure committee to  
20 obviously capture the essence of the  
21 Administration's original proposal. So, we are

1 happy to --

2 SECRETARY LaHOOD: The value of what we  
3 are doing here this morning and the remainder of  
4 the day and tomorrow morning is, you know,  
5 collaborating with all of you, you know, so we get  
6 it right.

7 Well, I think I am going to scoot out of  
8 here and Peter is going to continue to march  
9 forward with all of you. But again, thank you to  
10 all of you, each one of you for participating and  
11 being a part of this and being helpful to us. And  
12 we really consider you full partners in what we  
13 are doing at DOT, and I hope you feel the same  
14 way. And if you don't, I'm sure you will tell  
15 Peter that. Have a good meeting. Thank you.

16 (Applause.)

17 MR. ROGOFF: Before he runs out, I also  
18 want to thank the Deputy Secretary for joining us  
19 here this morning. I think it is important to  
20 point out that the whole evolution of our transit  
21 rail safety initiative started with the task force

1           that the Secretary charged the Deputy Secretary  
2           with chairing.

3                     It involved contributions from all of  
4           the other modal administration with DOT. There  
5           were a great many really robust and helpful  
6           contributors to that. One of those is here, Jo  
7           Strang, chief safety officer to the FRA. We had  
8           contributions from many other entities.

9                     It also was -- when we came forward with  
10          a rail transit safety proposal for the FTA, it was  
11          the first -- the first opportunity for the  
12          Secretary's new safety council -- there was a  
13          multi-modal DOT safety council some years past.  
14          It has been revised and resuscitated by Secretary  
15          LaHood. And reviewing and giving comments on our  
16          rail transit safety bill was one of the first  
17          things that the Secretary's Safety Council has  
18          done. And we have taken a great many additional  
19          steps since.

20                    I just have a few things I want to add  
21          by way of introduction on this important meeting.

1           One, is to really congratulate all of you and  
2           thank you again for your willingness to serve on  
3           this important group. You were selected out of  
4           among 80 nominees. You were selected because of  
5           the diversity and the experience -- your  
6           experience that you bring to this charge. Also  
7           the diversity of trying to get folks from  
8           different parts of the country and different types  
9           of transit operations and different steps in the  
10          transit safety process.

11                         But importantly, I want to point out  
12          while your professional affiliation was a factor  
13          in who we selected so we could achieve that  
14          diversity, each of you is appointed as an  
15          individual. We are asking you to bring us your  
16          personal safety expertise and bring it to bear on  
17          the specific safety challenges we face.

18                         What we would like to avoid is having  
19          people lapse into needing to be the official  
20          mouthpiece of their employer on these questions.  
21          If that is what we fall into, then I don't think

1           that we are going to necessarily succeed in  
2           getting consensus on a great many issues.

3                         Just an example of how that is, the case  
4           of Georgetta. So, when we first accepted  
5           Georgetta's nomination to be on the advisory  
6           committee, she was working for the CPUC. By the  
7           time we had our first meeting, she is working for  
8           MARTA, I believe now. But she is staying on the  
9           advisory committee, as is all of you, if you  
10          change professional position during your term,  
11          because again, we will be appointing you to bring  
12          your expertise to this challenge, not just to wave  
13          the flag of your employer.

14                        Other things I would like to point out  
15          and remind people of is sometimes when we talk  
16          about the urgency of transit safety legislation,  
17          we forget the fact that rail transit safety as a  
18          mode is still and remains a very safe mode. We  
19          transport eight times as many passengers as does  
20          the commuter and freight railroads -- excuse me --  
21          commuter railroads and Amtrak every day. But

1 those agencies, as you know, are under FRA's  
2 rather robust safety regime. This is one of the  
3 distinctions that we are trying to work through.

4 I have said repeatedly that the  
5 Administration's goal is not to create the FRA  
6 rule book for rail transit agencies. Not only do  
7 we not think it would be value added, but  
8 importantly, there are some very real distinctions  
9 between rail transit agencies and the similarities  
10 that you find among commuter rail and Amtrak.

11 Our challenge is to try to develop  
12 minimum standards and safety systems that allow  
13 each of the individual rail transit agencies to  
14 both be cognizant of and then address their each  
15 individual safety vulnerabilities, and those  
16 vulnerabilities can differ and will different  
17 agency to agency.

18 It is while transit rail safety is a  
19 very safe mode, we do need to be attentive to the  
20 fact that our employees, especially experienced  
21 employees are retiring in increasing numbers. We

1           need to be attentive to the fact that our systems  
2           are aging, and some of the more modern systems are  
3           showing themselves not to be as reliable and  
4           durable as originally thought when they were first  
5           installed.

6                     And we also need to be cognizant of the  
7           fact that some of the systems are becoming more  
8           complex, and we need to have a work force that is  
9           fully trained and able to handle that complexity.

10                    One of the things I would like to talk  
11           about very briefly -- it really it's just a plea,  
12           if you will, and that is to stay focused not just  
13           on the passengers, but the safety of transit  
14           workers. We owe a very important obligation to  
15           the workers of the transit agencies that come to  
16           work who are committed to delivering the  
17           passengers safely every day.

18                    They are also the ones that are most at  
19           risk. And we have agencies that have a very  
20           strong safety performance in one area and not in  
21           the other, and we are determined to address both

1 simultaneously.

2           One of the things I would add, you know,  
3 when the original prohibition was put into law in  
4 1965 that prohibited the FTA from regulating the  
5 area of transit safety, rail transit in America  
6 was a very, very different thing. In 1965 there  
7 were transit agencies that were paying tens of  
8 million of dollars in federal taxes on their  
9 annual profits. We don't have that challenge --  
10 which we did, but we don't have that challenge  
11 right now.

12           Rail transit was becoming a very  
13 different -- different commuting patterns, very  
14 different footprint, very different level of  
15 complexity, very different funding regimes on how  
16 they were financed. This is a completely  
17 different day. And we need a rail transit safety  
18 regime that addresses the current day.

19           I think importantly, the reason why we  
20 have stood up as a advisory committee, why we do  
21 not yet have rail transit safety authority is so

1 we can hit the ground running when we get that  
2 authority; that we can be in a place where we want  
3 to already have done a fair bit of our homework  
4 and have a sense of where we are heading. So on  
5 the day that that authority is issued, we know  
6 where we are going, we have work products in  
7 motion.

8 Obviously, we are not going to take any  
9 measures in advance of getting that authority that  
10 would get us on the wrong side of the law  
11 enforcement. But fortunately, we have an Advisory  
12 Committee Act that allows this group to do a lot  
13 of robust work on where they think we should be  
14 heading while we await the President's signature  
15 on that bill.

16 So, with that, I'm going to take a step  
17 back. If anyone has any other particular  
18 questions of me, I'm happy to answer them now.  
19 Otherwise, I would like to do away with the podium  
20 and sit at the table. I think we are going to  
21 take time, go around the room one by one and have

1 each of the advisory committee members give a  
2 brief introduction and brief you on how they see  
3 our process going forward. Thanks.

4 MR. FLANIGON: Although we did a short  
5 introduction around the table on the committee  
6 before our leadership got here, I think it would  
7 be worthwhile to repeat that for Peter's benefit  
8 before he starts having a dialogue with you all  
9 about what he is going to be asking you to do.

10 And I wanted to add to the committee, we  
11 have, I think the best term is ex officio members  
12 present. Peter already mentioned Jo Strang with  
13 the Federal Railroad Administration. Another ex  
14 officio organization is the NTSB with Jim  
15 Southworth.

16 So, if we could do the quick repeat of  
17 those self-introductions, along with that added  
18 information of where -- what you see as our tasks  
19 as we move forward. And we will start again on my  
20 left with Mr. Pearson.

21 And for the record, I do have my cell

1 phone turned off.

2 MR. PEARSON: Well, good morning again.  
3 I'm Alvin Pearson, the assistant general manager  
4 of operations at Memphis Area Transit Authority,  
5 MATA. I have been in transportation for now 34  
6 years. I have done everything from railroading to  
7 senior citizens public transportation to being the  
8 state director of public transportation rail and  
9 the water.

10 And I think this is a great honor, and I  
11 am very well pleased and proud of what  
12 Secretary LaHood is trying to do, along with Mike  
13 and Administrator Peter Rogoff.

14 I think that one of the things that --  
15 one of the first thing I probably bring to the  
16 table is honestly and truth. I'm not one to be  
17 politically correct at all times, but I try to  
18 make sure that what I say I have supporting  
19 documentation to support that.

20 There are going to be issues with  
21 funding. I think you are going to be able to take

1 care of those issues once we get the format laid.  
2 I'm here to participate in laying that format. I  
3 think the expertise that I bring to the table  
4 would be my affiliations with state governments,  
5 my affiliation with other transit entities to  
6 express with you the day-to-day crises that we  
7 have, as well as my knowledge from starting at the  
8 bottom at the railroad working my way up to the  
9 top.

10 And if honesty is not what you want, I  
11 may not be the person. But I feel that that is  
12 part of our problem now, I think that we need to  
13 be honest, upfront and have a working agreement to  
14 work it out no matter what.

15 So I thank you for this opportunity.

16 MR. DOUGHERTY: Good morning again, Jim  
17 Dougherty, chief safety officer at WMATA. I  
18 actually pretty recently started that position. I  
19 have been in the transit industry, starting in  
20 Cleveland, since 1981, so about 29 years. Of the  
21 29 years, 26 years in the transit transportation

1 safety.

2 I also hold a position on the board of  
3 directors of the National Safety Council and as  
4 the vice president of the Transportation Safety  
5 Institute. So, I have a lot of interworkings with  
6 transit -- well, with safety professionals from  
7 all around the world, not only in the transit  
8 business. But one of the things we look to bring  
9 forward is hopefully, not only the raising of the  
10 status of safety, I guess, in the agencies that  
11 we work for within the transit business, I should  
12 say, but also as far as looking to what we can do  
13 to establish some consistency, you know, in  
14 regulations.

15 It has been mentioned the minimum  
16 regulations, but I'm hoping that we, with the bill  
17 passage, that it would establish consistency  
18 throughout the country, and the regulations, that  
19 will certainly help all of us as we are building  
20 our safety programs and continue to build our  
21 safety programs, or in my case, we are kind of

1 starting over with some of the safety programs  
2 with WMATA and instilling, you know, safety as the  
3 primary focus.

4 I would like to certainly say focus to  
5 kind of keep the eye on the ball, but we really  
6 need to do things safely. State of good repair, I  
7 believe, plays into the safety. That helps us  
8 with our infrastructure, but we still have  
9 training, and I think there is a lot of training  
10 we can share in the safety training and the  
11 training for consistency that we actually provide  
12 in the transportation business.

13 I am looking forward to working with the  
14 committee. It is an exciting and honorable  
15 opportunity and certainly, I believe, bring the  
16 integrity. As Mr. Pearson had mentioned, I think  
17 we need to be open.

18 One of the things I had not mentioned, I  
19 did also serve 22 years as a sworn police officer  
20 in northeast Ohio, along with my transit safety  
21 job. So, I kind of have -- that was kind of, I

1           guess, an unfortunate perspective, I guess, if you  
2           will, but certainly enjoy that and look forward to  
3           working with everyone. Thank you.

4                   MR. ROGOFF: Let me point out, Jim's  
5           nomination came to -- I think it is on now,  
6           thanks -- when he was still in San Francisco. So  
7           while I mentioned Georgetta's instance, this is  
8           another instance where we bring a professional on  
9           board with us, and his challenge -- who has  
10          changed jobs and he is still with us. Thanks.

11                   MS. McCOMBE: Good morning again. My  
12          name is Pamela McCombe. And I have a different  
13          background. I'm a professional engineer, and I am  
14          Canadian, and I have a Canadian experience to  
15          bring to the table. I have been in the U.S. for  
16          11 years and have worked for two different transit  
17          agencies in the U.S., and I have over 25 years  
18          experience in public transportation, particularly  
19          transit.

20                   I know that we will be looking at  
21          different models today, and one of the things that

1 I would like to emphasize is that the regulation  
2 has some very good components to it. I feel that  
3 one of the main problems is that it is not  
4 consistent -- the application of it is not  
5 consistent across the country. And I think that  
6 that poses problems, and that is where the FTA can  
7 step in to ensure that there is consistency from  
8 the state safety oversight agencies.

9 You have some agencies that have  
10 inspections; some do not; some are simply just  
11 pushing the paper, so to speak. That has to  
12 change.

13 The other issue is knowledge. Some  
14 transit agency oversight agencies have good  
15 knowledge; some don't. We have to have a  
16 consistent almost accreditation to state safety  
17 over state agencies. But that also applies to the  
18 agencies themselves.

19 The safety personnel at the agencies  
20 also should receive the same type of training and  
21 also should be conducting inspections as well and

1 doing detailed audits. So it not only should be  
2 at the state oversight level, but it all should be  
3 at the agency level.

4 So those are the two main issues. There  
5 are other issues with emerging technologies and  
6 funding to the agency for the safety groups so  
7 that they can test emerging technologies, and  
8 where there is training and knowledge required,  
9 that there is funding available. Thank you.

10 MR. CHENG: Hello again. My name is  
11 Eric Cheng from Utah Department of Transportation.  
12 I have been working with Utah for 22 years,  
13 previous experience including I was a safety study  
14 research engineer for the department and also as a  
15 state safety oversight program manager for 10  
16 years.

17 It is a great honor to be involved in  
18 this committee. And I have some exposure to Asian  
19 countries' safety programs. I would like to make  
20 a point to this committee that I think I also talk  
21 to UTA people, so some of them and me myself

1 believe we should also look at other countries'  
2 safety programs and see how they are doing it,  
3 especially in Europe. You know, in Europe they  
4 have some good systems; Japan, Hong Kong, Taiwan,  
5 China. We need to take this opportunity to review  
6 their programs and learn from them.

7 Another thing is that, I have been,  
8 since my involvement with the safety analysis,  
9 although now at (inaudible) transit we have data.  
10 We have better safety database, but I feel we  
11 don't use that data in our analysis effectively.  
12 I think we should use the data to find the  
13 problem, identify the problems on the highway  
14 side.

15 Of course, you can see (inaudible) most  
16 of the research everything is mostly on the  
17 highway side. The transit side we have TCRP. But  
18 compare the highway side it is very, very minimum.  
19 Of course, as we know, transit is a safer system,  
20 but I feel we still need that data to improve  
21 safety. Thank you.

1                   MR. CLARK:    Good morning again, Richard  
2                   Clark with the California Public Utilities  
3                   Commission, director of consumer protection and  
4                   safety.  I, too, bring a unique perspective.  I  
5                   started out -- safety was ingrained in me very  
6                   early on as a child.  I grew you on a fairly large  
7                   farm, where we dealt with all of manner of danger  
8                   and hazard.  As a matter of fact, the second most  
9                   dangerous industry in the United States is  
10                  farming; first being deep-sea fishing, which is  
11                  kind of like farming on the ocean, really.

12                  In my current position for the last 10  
13                  years, I have been responsible for electric safety  
14                  and natural gas safety, communication safety,  
15                  freight and railroad safety intercity and rail  
16                  crossing safety.  And prior to that, for 26 years,  
17                  I did labor law enforcement as a investigator for  
18                  the Labor Commissioner in the state of California  
19                  and 13 years running my own private investigations  
20                  agency, where my clients were labor unions, labor  
21                  unit trust funds, labor management cooperation

1 committees, et cetera.

2 I think that there really are two very  
3 important components to improving safety. One, of  
4 course, is the fundamental rules that people must  
5 comply with in order to operate systems safely.  
6 But I think those rules need to be ensconced in a  
7 safety culture within an organization where  
8 everybody is watching out for themselves and for  
9 everyone else, that they are situationally aware  
10 and mindful of what their actions are, what the  
11 action of others are.

12 And I was very impressed with the  
13 reading and preparation of this. I was very  
14 thankful for it and impressed by the approach by  
15 the Federal Aviation Administration, particularly  
16 when it comes to safety culture. And with that, I  
17 look forward to the conversations and the learning  
18 that will go on here in this TRACS committee. And  
19 again, I'm honored to be a member and thank you  
20 very much.

21 MR. KRISAK: Good morning again, Rich

1 Krisak with MARTA, HM of rail operations and  
2 development. I have been in the rail transit area  
3 for 31 years in my career. I started out as a  
4 train operator running trains in New Jersey, so I  
5 have a very practical knowledge of application of  
6 safety and actually doing your job on a daily  
7 basis.

8 I have had the opportunity to work the  
9 design, planning and development and the starting  
10 of the three rail systems. So I have plenty of  
11 experience in that area.

12 I guess the major concerns for me and  
13 issues -- and I think we heard a couple of them  
14 already is number one, a standard level of  
15 certification training and knowledge. To call  
16 yourself a state safety oversight official what  
17 does that mean? And I think the state safety  
18 oversight agencies that I have worked for in the  
19 states I have been in that is very inconsistent.

20 There isn't a certification process.  
21 There isn't a particular body of knowledge to be

1 state safety oversight -- to head up that function  
2 for a state. I think that is really a problem  
3 that is a deficit. As well as even inside our  
4 industry, even with the agencies there is no  
5 consistent level of expertise training or  
6 knowledge base that I have to have to function in  
7 that position.

8 You know, we have given some examples of  
9 some material to read about the FAA. And I think  
10 one of the differences is you do see there is a  
11 certain expectation, a level of knowledge and  
12 training for an FAA official based on your level  
13 in the organization. We don't really have that in  
14 transit. I think that is a real deficit to us.

15 The other thing that I have heard over  
16 my career from different federal agency, as a  
17 matter of fact, is in terms of design, there are  
18 no standards. We don't have any regulations.

19 To a degree I guess I agree with that,  
20 but on the other hand, I think there are some  
21 standards. Practices that we all pretty much

1 follow, NFPA 130 being one of them, I think those  
2 are guidelines most of us follow. The start-ups I  
3 have been, we look very closely at California PUC,  
4 the general order, which is a pretty good starting  
5 point. So we look very closely at that in terms  
6 of grade crossing protection, single systems based  
7 on speed and operating environments.

8 So, there are standards that are out  
9 there. Of course, they are not uniformly applied.  
10 So, I think a lot of the body of material and  
11 knowledge exist. It probably just needs to be,  
12 you know, codified and regulated, because I think  
13 a lot of us do that already, and really wouldn't  
14 have a problem applying it if we were required to.  
15 And, again, I think incentivizing through funding  
16 is a big part of it as well.

17 MR. ROGOFF: I want to point something  
18 out very quickly, I feel like a school teacher  
19 that has to separate the children. But while we  
20 do happen to have two representatives from MARTA  
21 because Georgetta changed jobs, you really should

1 not be allowed to sit next to one another.

2 (Laughter)

3 MR. ROGOFF: We will fix that next.

4 MS. GREGORY: Well, actually in response  
5 to that, I was taking advantage of these 2 days to  
6 learn from my peer here Mr. Krisak, because my  
7 first 3 weeks at MARTA has been a total whirlwind.  
8 We do have a lot of executive meetings. So, there  
9 was a reason -- there was a purpose in me sitting  
10 next to Rich.

11 Good morning. I'm Georgetta Gregory.  
12 I'm the brand new AGM safety and quality assurance  
13 at MARTA. Prior to that, I was with the  
14 California Public Utilities Commission, where I  
15 was the program manager for the rail transit and  
16 crossings branch.

17 Most of my background, however, is in  
18 railroading, mostly in the operations department,  
19 over 30 years with Southern Pacific and Union  
20 Pacific. So my background is a very practical  
21 hands-on working knowledge.

1                   I must say that I'm both honored and  
2                   humbled to be here at this esteemed table, and I  
3                   wish I could say that I had brought more to the  
4                   table, but I think that my participation is going  
5                   to be more my benefit than yours. My predecessors  
6                   here at the table have very eloquently summed up  
7                   the tasks that we have in hand, and not to just be  
8                   redundant and repeat those things, I'm really  
9                   looking forward to taking some of the mystique out  
10                  of this safety culture that we are all so versed  
11                  in throwing about.

12                  We need to take the mystique out of  
13                  that, put it in black and white, share it with our  
14                  peers and put those tools and those philosophies  
15                  to work so that our patrons, our employees and the  
16                  entire nation is a safer place to ride around in.  
17                  I think we are on the cusp of a great transition  
18                  in this wonderful nation in the world of public  
19                  transportation.

20                  I personally am very excited to be part  
21                  of this and really look forward to working with

1           this committee to help mold and develop the  
2           baselines, the minimums. And I agree with Rich,  
3           we need standards, not over cumbersome minimum  
4           standards, but a reference, if you will. There is  
5           no where to go and get a degree in public  
6           transportation, so there is a profound need, and I  
7           look forward to being a part of that development.  
8           Thank you.

9                         MR. HARTBERG: Good morning once again.  
10           My name is Henry Hartberg. I'm the senior manager  
11           of operations safety at Dallas Area Rapid Transit.  
12           That is a position I have held for since 1983, so  
13           October would be 27 years. All together, before  
14           that, with other things I have about 40 years of  
15           transportation of one kind or another.

16                        I took over the bus safety at DART in  
17           1991 before we had any rail out there. And before  
18           that, my perspective would be, and I'm still proud  
19           to say I started with what was then DTS and now is  
20           DART as a bus operator. So I have been one of  
21           those guys that works his way up through the ranks

1 over the years and been very fortunate.

2 When rail came a long, and Richard  
3 Krisak will remember this, DART decided that they  
4 couldn't really -- I had no rail experience  
5 whatsoever. And I must say I never applied for a  
6 position on rail. However, DART figured out that  
7 they didn't -- they didn't feel like they could  
8 afford a real safety person, so they came to me  
9 and told me that they wanted me to do it. Thus I  
10 became DART's blue light special.

11 (Laughter.)

12 MR. HARTBERG: But I worked hard at it  
13 over the years. And with the help of Richard  
14 Krisak and much of his people, they taught me what  
15 was sometimes very painful lessons about system  
16 safety and the role that it would play. And over  
17 the years, we have developed a system safety  
18 process that we are very proud of and that has  
19 been pretty much incorporated into the culture at  
20 DART.

21 It is not perfect, but we had a visit

1 from the Office of Inspector General, as some of  
2 the other properties in this room did, and during  
3 that period of time what I discovered was, first  
4 of all, I had the support of executive management  
5 like you wouldn't believe. I don't know, maybe  
6 that is in part because they are afraid of the  
7 OIG, but they were in the room.

8 And what I realized, we really had made  
9 some progress when I discovered I didn't have to  
10 say much. I had executive management in the room  
11 explaining to the OIG how our system safety  
12 process worked, forwards, backwards, up and down.

13 So my concern with what we are doing or  
14 one of the things that will be a focus of mine is  
15 the whole notion of safety culture that we talk  
16 about, and hoping that within the realms of  
17 rulemaking and things that occur once we have  
18 regulatory authority, that we make sure that we  
19 have training and understanding and a method that  
20 will engage executive management of not just in  
21 being able to say I'm all for safety, but

1 understanding exactly how that process works  
2 within their own organizations. So, those are  
3 things that I find very, very important.

4 The consistency of state safety  
5 oversight has been kind of beaten to death. We  
6 all know that under the process as it is now, I  
7 don't know how you can get that uniformity without  
8 some form of regulation to guide it.

9 So, those are the things, some of the  
10 things I'm interested in, and I feel very honored  
11 to be on this panel. And I thank you all and I  
12 thank very much for allowing me to be here.

13 MR. HARDY: Good morning, everybody.  
14 First of all, my name is Leonard Hardy. I work  
15 for the San Francisco Bay Area Rapid Transit  
16 District, commonly known as BART. I have been  
17 with BART for roughly 10 years. I started as  
18 manager of operations and safety, and became chief  
19 safety office for the district a couple years  
20 after that.

21 Now, prior to working for BART, I worked

1 for the California Public Utilities Commission. I  
2 also was an engineer there, started off as an  
3 engineer, and I worked mainly in the rail transit  
4 safety section. And while with PUC, I was  
5 involved in the first round of the FTA state  
6 safety oversight Part 659.

7 And that involved government regulations  
8 for the PUC in the form of a standard that came  
9 out by the Commission. It also involved working  
10 with the transit agencies and the first formal  
11 development and submittal of their systems safety  
12 program plans and security plans.

13 So, I feel like I have had the benefit,  
14 if you will, of the experience of seeing the  
15 effects of regulation both from the regulatory  
16 point of view, also from the end user of transit  
17 agency.

18 Now, with respect to TRACS, first of  
19 all, I appreciate very much being selected to  
20 serve on this panel. And, you know, if I think  
21 about what I would like to get out of this, it

1 would be easy to slip into development of  
2 regulations at a very complex, if you will, and  
3 cumbersome for the industry.

4 So, I think, however, it is more  
5 difficult to develop regulations that are not only  
6 effective, but that are also simple, clear and  
7 practical to implement. And I think I should  
8 strive for that, to try to get simple, clear  
9 practical and effective regulations.

10 I look forward to working with this  
11 group very much. I think it is diversified with  
12 different backgrounds, and I think we will learn a  
13 lot from each other as we go through this process.  
14 And finally, I hope at the end of this term, if  
15 you will, that we will provide sound and helpful  
16 advice to the FTA.

17 MS. BRIDGES: My name is Bernadette  
18 Bridges. I work for Maryland Transit  
19 Administration, and I have been in transit for 25  
20 years. I began my career as a transit operator  
21 and went on the rail side as a rail supervisor and

1 train controller, and then went to the office of  
2 safety, where I have been for 10 years. I work as  
3 a safety officer, and I have been executive  
4 director for approximately year and-a-half.

5 I think what I bring to the table is --  
6 I guess my familiarization with dealing with  
7 management on safety issues, capital projects,  
8 system safety for capital projects. That would be  
9 something that we have done, some of the  
10 challenges that we faced, the implementation of  
11 system safety management plans and plans that we  
12 have in place.

13 I think some of the challenges that we  
14 face at MTA are things that we face around the  
15 country. And I could go and repeat all the things  
16 that everybody said before, but again, it is  
17 consistency that we don't have in transit.

18 I also bring to the table first line  
19 experience with operators and managers and some of  
20 the challenges that we face training our staff or  
21 the managers or the employees and nationally

1 integrating safety into the capital projects, end  
2 projects. So those are some of the things that I  
3 bring to the table, I'm looking forward to working  
4 with everyone. Thank you.

5 MR. PRENDERGAST: I'm Tom Prendergast,  
6 president of New York City Transit. I'm sitting  
7 in for Linda Kleinbaum. There are a number of  
8 people in the MTA family that have established  
9 safety backgrounds, and Linda is going to be our  
10 rep, her role is support.

11 I have been in the transit profession 35  
12 years, 10 of which were in safety positions at the  
13 start of the Transit Authority, the MTA  
14 predecessor (inaudible) and qualification, and  
15 then New York City Transit. I also was 5 years  
16 president of Long Island Rail Road.

17 I agree with everything all the other  
18 committee members have stated with respect to what  
19 we need to focus on.

20 I'm also chairman of the Standards  
21 Development & Oversight Committee or APTA. And

1 that has been a long-standing desire of mine to be  
2 able to get to a point where the industry can have  
3 standards. Started this process 30 years ago.  
4 The smaller set of properties that we had, we are  
5 always fighting with each other, saying that you  
6 couldn't develop standards that would be  
7 applicable across all the agencies. You know,  
8 different track ages, different -- all these other  
9 arguments.

10 But we were able to get to a point now  
11 where we are developing effective standards, and I  
12 agree with Ed's comment that we used the word  
13 "minimum," but it really is better to say  
14 something that is an established floor that all of  
15 the properties can look -- that are practical,  
16 that are simple, that are understandable, but that  
17 provide a frame of reference for people to aspire  
18 to and live within.

19 I also believe I agree with the  
20 Administrator that you don't want to automatically  
21 determine what sites is all regulatory

1 environment. But I would say there are some  
2 things about some of the processes and procedures  
3 that the FRA has in terms of rulemaking and in  
4 terms of joint concensus development toward a  
5 standard that people accept that provides a level  
6 of consistency that we need to get to in this  
7 industry. And I would like to see the committee,  
8 and a lot of people here have already stated that  
9 those are important things.

10 The last thing I would like to say is  
11 that it is very important, and two or three of the  
12 committee members stated it, it has to get to the  
13 level where the senior executives of the agencies  
14 all receive their executives can literally at the  
15 same level of detail that the safety officer can  
16 explain the requirements for responsibilities, and  
17 that it truly gets to the point, because when all  
18 the employees know the person in charge of the  
19 agency makes it a priority, it will become their  
20 priority.

21 This is a very esteemed group. I'm very

1           humble to be here as well, and I will support  
2           Linda as she participates as a committee member.

3                       MR. INCLIMA:   Good morning again.   My  
4           name is Rick Inclima.   I'm director of safety for  
5           the Brotherhood of Maintenance of Way Employes  
6           Division.   Just as a little piece of background,  
7           I, like many of you, came from the bottom up.   I  
8           hired on as a trackman with the Penn Central  
9           Railroad way back when, and worked my way up,  
10          spent 16 years out the track, mostly on the  
11          northeast corridor, where we run essentially the  
12          fastest trains in the country.

13                       I have had about a equal number of  
14          years, 16 or so, full-time staff with the BMWE  
15          with primary responsibilities for safety.

16                       Hopefully what I bring to the table is  
17          that practical experience and hands-on background.  
18          I'm also a voting member of the Rail Safety  
19          Advisory Committee, which is the RSAC the FRA  
20          rulemaking committee, somewhat corollary to this  
21          group, and I have sat on dozens of working groups

1 and dozens of task forces, and I probably have the  
2 scars to show.

3 But I would say with that, that the  
4 collaborative process, the process of  
5 consensus-based rulemaking which are data driven,  
6 which are well flushed out, is, I think, far  
7 superior to having an agency post stuff on the  
8 wall and we all throw darts at the Federal  
9 Register (inaudible). At the end of the day, you  
10 get something that maybe nobody is comfortable  
11 with and nobody likes.

12 So the beauty of the collaborative,  
13 consensus-based is you get your input on the front  
14 end and. We can all be honest, we will argue, we  
15 will bang head, we will have agreements and  
16 disagreements. But in the end, through good faith  
17 and through all hands on the same goal, we get to  
18 that place where we make sense of the chaos and  
19 come up with a good set of guidelines, good set of  
20 regulatory base of floor, if you will, to improve,  
21 transit safety in the same way that we have done

1           that in the FRA or through the general rail  
2           system.

3                         Something was said earlier today, I  
4           believe by the Secretary, that I think is  
5           important, and that is that the worker safety is  
6           as important a focus as operational safety,  
7           passenger safety. You can't do one without the  
8           other. If you kill a passenger, God forbid, very  
9           bad outcomes. Workers, same thing, there is  
10          something wrong when you have that type of a  
11          situation.

12                        So, I certainly hope to focus on both  
13          aspects. And I'm sure everybody in the room will.  
14          Worker safety and passenger safety as well as  
15          transit safety; the way I see it is very simple  
16          language.

17                        Certainly I look forward to working with  
18          you all and sharing expertise and experiences,  
19          getting to where we all would like to be, And like  
20          we said earlier, making the transit system in U.S.  
21          the best in the world.

1           Just as a little editorial comment, the  
2           Brotherhood of Maintenance of Way Employes  
3           Division, the word "employee" has as in the name  
4           is actually spelled with one "E". And the reason  
5           for that is we formed back in 1887 as an  
6           organization and merged with the Canadian  
7           maintenance way workers in 1901.

8           And as a nod, if you will, a little  
9           historical background to our roots, we have left  
10          the employees spell with one "E," which is the old  
11          English spelling. So, I will make a deal with  
12          you-all tonight, when it says Brotherhood of  
13          Maintenance of Way Employes with one "E," don't  
14          take offense to that, and I won't take offense  
15          when you correct it to two "E's". It is all good.

16          Thank you very much. We look forward to  
17          working with you all. Thank you, Peter.

18          MR. SOUTHWORTH: I'm ex officio member  
19          of the (inaudible) my name is Jim Southworth. I'm  
20          the chief of the railroad division at the National  
21          Transportation Safety Board. I have

1 responsibility for the overall management of rail  
2 related investigations.

3 Another activity of my investigator  
4 (inaudible) and outreach. Fifth generation  
5 railroader, my career is pretty well split, I  
6 don't want to leave anything out. I have spent  
7 about 15 years at the Association of American  
8 Railroads in various positions working with all  
9 (inaudible) class one and so forth under FRA  
10 regulations.

11 We are, of course, very supportive of  
12 the establishment and the enforcement here of  
13 minimum federal safety rail transit and those  
14 carry -- are not already regulated by the FRA.

15 I look forward to helping out with the  
16 discussions, answering any questions that may be  
17 about our agency's work. I have made a couple of  
18 trips this year, one to Philadelphia in April, and  
19 one to Boston last month in August to talk a  
20 little bit about how we conduct our investigations  
21 and what they can expect from the NTSB (inaudible)

1 policy and also process (inaudible) from the  
2 development of and the recommendations.

3 I'm also happy that there is an  
4 opportunity this afternoon to talk about safety  
5 plan modules. Our member Mr. Sunwalt, will be  
6 participating in that portion of today's  
7 activities.

8 I would like to point out also today  
9 with us this morning is my new boss Steve  
10 (inaudible), right back here. He became the  
11 director of the Railroad, Pipeline and Hazardous  
12 Materials Investigations office of which I work  
13 for. And I am happy to work with Steve. So you  
14 get a chance to see him. Many of you already know  
15 him. He spent almost, I guess, three decades in  
16 the industry, (inaudible) New Jersey Transits.  
17 I'm glad to be here and help out in any way I can.

18 MS. KOVALAN: Thank you. Good morning.  
19 Again, my name is Amy Kovalan, and I'm with the  
20 Chicago Transit Authority. Perhaps what I bring  
21 to the table is a fresh look into transit, which

1 is what I brought to CTA which I joined just over  
2 2 years ago.

3 My background is a little bit different.  
4 It is a legal compliance risk management and  
5 audit. So an important component of when I joined  
6 the CTA safety team is the (inaudible) it was a  
7 process from how to (inaudible) about safety.  
8 What I really learned is that there are some key  
9 things that needed to be done in order for me to  
10 be there, which is (inaudible) of why I was hired  
11 and I'm sure you are, too. We need to be out  
12 there in the middle of the night when something  
13 goes wrong, we need to be talking to people when  
14 something doesn't go wrong (inaudible) and you  
15 need to be out there and seeing when things go  
16 right, so you need to be out there. When you are  
17 out there you need to listen and you need to  
18 watch.

19 And I think that talking about safety  
20 culture and talking about employees is really the  
21 right place to start. There are layers to safety

1 in all of our information and our industry. And  
2 when something catastrophic happens, it is not  
3 because the operator on the line was the last  
4 credible mistake, it is because there were many,  
5 many issues leading up to that last critical  
6 moment.

7 And, so, I think recognizing that in our  
8 industry as other industries have, I enjoyed the  
9 previous as well, as there is a lot of to be learn  
10 in how the airline industry brought down their  
11 catastrophic accident numbers over the last 30  
12 years, 40 years, and a lot of that came through  
13 training, through resource management, human  
14 factors (inaudible) training for people who make  
15 critical decision.

16 One of my favorite things to play for  
17 people is the tape of the pilot who landed the  
18 plane in the river in New York. When you listen  
19 to his process and how calm he is and how he makes  
20 decisions, how he evaluates his actions, and then  
21 makes the last best decision based on the options

1           that he is provided, I think the industry -- our  
2           industry can learn a lot from that.

3                       I will feel better about our safety  
4           program when I (inaudible) frontline (inaudible)  
5           the level of training and simulation that the  
6           employees in the airline industry get.

7                       I also think that there is a critical  
8           need between risk litigation, state of good repair  
9           and funding. I know that the FTA is focused in on  
10          that and finally telling people that you need to  
11          make our systems 100 percent safe. You are going  
12          to run trains. You are going to move (inaudible)  
13          people a day. Things are going to happen.

14                      So what we really need to do is figure  
15          out what is the risk appetite, what are the pros  
16          and cons. When we run a very old system it  
17          doesn't mean it can't be safe. Sometimes in more  
18          complex system raise different safety challenges.  
19          But if you are going to run a system, it has to be  
20          in a state of good repair in order to run safely.

21                      And then finally I wanted to talk about

1 the notion of a minimum standard. I think that,  
2 as has been said, there are many things that we  
3 can do in our industry to set minimum standards.  
4 And certainly coming out of a compliance  
5 background, I'm a strong believer in that. But I  
6 do think it is important for this group to have  
7 those discussions. Just as an example of NFPA 130  
8 (inaudible) in a new start makes perfect sense.  
9 Why would we build a system that didn't meet that  
10 standard. STCA (phonetic) if I want to bring my  
11 subway system up to NFPA 130 standard, I need to  
12 check for billions of dollar, because I need to  
13 rebuild my subway, I need to dig ventilation  
14 shafts, I need to move utilities, I would need to  
15 do a number of things in order to bring it up to  
16 that standard.

17 So while that is an aspirational goal,  
18 we need to discuss with the NTSB (inaudible) and  
19 expressed in 2006 it is not something that is  
20 achievable. It is a very, very large check. And  
21 as we look at that, you have to weigh that versus

1 other critical needs that also impact safety. So  
2 important interaction between minimum standard and  
3 creating safety operating systems is understanding  
4 what the individual risk ratings are for each of  
5 the things in your system. And we try to do that  
6 through our legislative process.

7 And that is another component to think  
8 about, how do we allocate our funding decisions  
9 along those safety risk lines. These are the  
10 types of things that we are working on, and I hope  
11 to share it with the group. Thank you.

12 MS. JETER: Good morning. My name is  
13 Jackie Jeter. I am president of the local here  
14 that represents the transit workers here in  
15 Washington, D.C. Many of you I have met through  
16 the NTSB hearing and all of the publicity that has  
17 been surrounding the June 22nd accident and the  
18 accident that followed.

19 I think some of what I hope to bring to  
20 this committee is the perspective of workers. I  
21 was very glad to hear the Secretary talk about the

1 fact that passenger safety is not only the first  
2 priority, it should also be worker protection.  
3 And if there is one thing that I know that has  
4 caused some of the sleepless nights that all of us  
5 encounter in transit is the worker protection.

6 I think we all here in the United States  
7 must change the culture in which we do business.  
8 That is what the FTA is trying to do with  
9 regulations. That is what we are trying to do  
10 here at WMATA. And I feel safer with public  
11 transportation, but it is also I need to feel that  
12 comfort that I know each and every one of my  
13 workers and my members will go home every night to  
14 their families because we do run safe systems.  
15 So, we have to get in the mind-set.

16 Oftentimes as managers of public  
17 transportation systems, you think about the bottom  
18 dollar, and safety is always cut first. If safety  
19 is cut first, then I can't go to sleep at nights,  
20 because I know that the workers that I represent  
21 cannot go home. So, I think that we need to

1 change that mind-set. We need to change it  
2 quickly. And I hope to do so or help to do so and  
3 look forward to that opportunity.

4 MR. WATT: Thank you. My name is Ed  
5 Watt. I started working for the UC Transit in  
6 1980. Very close to a year after I started there,  
7 one of my coworkers was killed on the job. I went  
8 to my first union meeting after that. It made  
9 safety very personal to me. I spent 9 years as  
10 the number two officer in Local 100 which  
11 95 percent members work for the MTA in New York  
12 City.

13 In this capacity now as the director of  
14 health and safety for the Transport Workers Union,  
15 I get a lot of exposure from both air and rail.  
16 They have great or at least better collaborative  
17 models that I think we should look at in term of  
18 process. We represent 40 or 50,000 American  
19 Airlines workers, as well as the ground crew and  
20 the -- excuse me -- the baggage ramp crew and the  
21 flight attendants at Southwest Airlines, one of

1 the only profitable and growing airlines in the  
2 country and one that is very proud to say that it  
3 is (inaudible) for more than 30 years.

4 I mentioned the air and the rail because  
5 I, too, like Tom have a backup team and a support  
6 team of people for both rail and air who are very  
7 active in the rulemaking processes. And I think  
8 that although there are differences in transit  
9 rail, you can't apply this or you shouldn't strive  
10 to apply that, that there are many similarities  
11 to. All of these industries are schedule driven  
12 by legal standards, medical standards and  
13 (inaudible). They all have production. So there  
14 are things that we learn from them, as well as  
15 from international sources.

16 Some of the consensus-driven components  
17 in these processes are mutual trust, candor and  
18 willingness to share information. I think that is  
19 important. It cannot be overstated in the work  
20 that we are about to undertake.

21 There are also four other important

1 items to mention. First of all, all the  
2 stakeholders are at the table, so I'm glad to see  
3 the diversity here, especially to see that there  
4 are consumers at the table. Getting the rider's  
5 perspective is extremely important.

6 It should be assisted by other  
7 professionals such OSHA and (inaudible) people who  
8 have invented this wheel and other wheels several  
9 times already, so we should not seek to reinvent  
10 that.

11 There should be knowledge based  
12 decisions here. I know a lot of times there is  
13 other than knowledge that creeps in. Fortunately  
14 and unfortunately at the same time I understand in  
15 the private sector if you don't make money --  
16 Southwest people tell me all the time, if planes  
17 done fly, we don't make money. So it can't be an  
18 obstruction to production, but it has to be  
19 balanced.

20 And lastly, there has to be  
21 transparency. That means very frank discussions

1 on things like on time performance, production,  
2 value of the work force and how the economic  
3 downturn that we are experiencing now, as well as  
4 unfortunate adversarial relations between work  
5 forces and management impact safety. Thank you.

6 MR. BATES: Good morning. My name is  
7 William Bates. I'm the District of Columbia  
8 legislative rep. What I bring to the table is, as  
9 in my title, Amtrak and the United Transportation  
10 I am an Amtrak conductor. I'm still working as a  
11 conductor. So, I'm one of the workers that you  
12 are talking about. So I have a whole different  
13 perspective to this committee.

14 My background, I have been a conductor  
15 for 29 years. I have also been a safety engineer  
16 for Amtrak, different safety committees with  
17 Amtrak. I even won the award for the top safety  
18 employee for Amtrak called the Charles Luna award.  
19 I serve now the FRA RSAC general rail safety  
20 committee task force.

21 And I just asked that if the agencies

1 here if you don't have labor at the table talking  
2 to you about safety, you should, because you need  
3 a different perspective. In order to have a safe  
4 operation, you need to have the workers there to  
5 tell you what they see, not what you think you  
6 might see. And I'm very passionate about safety,  
7 because when I first became a conductor, my  
8 mentor, 2 years -- I had been on the railroad for  
9 2 years, and my mentor got both of his legs cut  
10 off. And after that I realized that safety is no  
11 joke.

12 So this is what I bring to the table.  
13 I'm honored and I'm willing to work with each and  
14 every one of you on this committee. Thank you.

15 MR. GENOVA: Good morning. David  
16 Genova, assistant general manager of safety,  
17 security and facilities at Regional Transportation  
18 District, Denver. And I have been at RTD about 17  
19 years now, with a large (inaudible) emphasis on  
20 operation maintenance emphasis. But also we have  
21 had the opportunity to do a lot of expansion in

1       our system, and so a lot of the safety experience  
2       I have is with new starts and expansion.

3               And there has been a couple of mentions  
4       of minimum standards, minimum requirement, Richard  
5       started that dialogue there, and that is an area I  
6       would like to address. But overall, I think that  
7       this is an incredible opportunity for this group  
8       to have some input into meaningful and practical  
9       regulations.

10              Many of us kind of grew up with the  
11       state taking oversight rules. We know what works  
12       effectively, what elements of that program work  
13       well and what elements really not so well. So I  
14       think, again, we just have a great opportunity  
15       here for practical and meaningful regulations.

16              I was also very pleased to see in the  
17       proposed legislation pieces on asset management  
18       and state of good repair, because frankly, as --  
19       in agencies we talked about maintaining things to  
20       the state of good repair. I think what we see  
21       around industry around the country is that that

1 means what we can afford in the short-term. And  
2 unfortunately, I think that we are putting off  
3 some very big dollar investments that are  
4 difficult for us to afford as an industry.

5 And so speaking to that, that piece on  
6 that asset management and state of good repair,  
7 really gets to another element that I want to  
8 point out from my perspective and my observation  
9 is that I think we have opportunity to have a  
10 greater emphasis through this process for the  
11 planning, design and engineering phase of new  
12 systems.

13 I appreciate the comments about older  
14 systems and really not being very practical to  
15 bring them up to people who have built a new  
16 systems to, but I think we have really great  
17 opportunity now to set some standards and have a  
18 greater emphasis on the investment that we make at  
19 the outset to be the most appropriate best  
20 investment we make, so that we, therefore, could  
21 actually achieve a state of good repair for our

1 systems. So, I think will be a very important  
2 part of this process. Thank you.

3 MS. DAVIDSON: My name is Diane  
4 Davidson, and I'm the director for the Center of  
5 Transportation Analysis at Oak Ridge National  
6 Laboratory, which is a DOE federal research  
7 organization. I have been there for about 3  
8 years.

9 And I'm really struck by the culture of  
10 safety that exists there. Every management level  
11 meeting, whether a director of a division or a  
12 center, begins with a safety message. And we, as  
13 managers, have to conduct 24 hours of safety  
14 observations a year and a minimum number of 24  
15 hours of safety.

16 So I think the culture of safety is  
17 very, very important from folks on the grounds all  
18 the way up to executive management. And I have  
19 witnessed this in the past. Also worked for  
20 the -- was with the National MTA for a few years  
21 and then served as the director of rail transit

1 and waterways for the TCOT. And I was GM for a  
2 smaller (inaudible) work of assistant.

3 Until I worked with a rail safety  
4 manager and the rail inspectors I didn't really  
5 have an appreciation for the culture of safety.  
6 They taught me a lot about the importance of  
7 everyone in the organization understanding that  
8 safety message.

9 One thing that I think we are already  
10 doing right in this committee and that the FTA is  
11 leading us towards looking at models from other  
12 organizations, in particular FAA and FRA. But I  
13 would also encourage us to look at FMCSA and  
14 FILMSA (phonetic), some of those other  
15 organizations that safety enforcement is critical  
16 to accomplishing their mission also. So, we might  
17 want to broaden the frameworks that we look at.

18 I think at the end of the day what we  
19 need to be focused on are consistent, effective  
20 and adequate regulatory framework that results in  
21 enforcement. And we have to balance the

1 enforcement with the standards, and in the middle  
2 of that will come data driven risk assessment -- I  
3 think that has been alluded to -- certification  
4 and continuous training, the world of technology  
5 and taken advantage of some of the new  
6 understanding of not only advanced technology in  
7 accomplishing the safety mission, but a few  
8 factors. So it necessitates a systems approach.

9 And listening to the background of my  
10 colleagues now on this committee I think we will  
11 get there. Thank you.

12 MR. GRIZARD: Good morning, everyone.  
13 Bill Grizard, I'm director of safety for safety  
14 programs at APTA, America Public Transportation  
15 Association. I had the distinct privilege of  
16 being the last one in line, so I can say I agree  
17 with everybody else said --

18 (Laughter.)

19 MR. GRIZARD: -- but I'm not going to do  
20 that. I think there are a couple of things that I  
21 will make some observations on.

1                   The first one was I was very glad to  
2                   hear that Mr. Rogoff and Mr. Millar actually  
3                   communicate on a safety level and that the message  
4                   they are getting across -- I guess all of the  
5                   notes they have been given to Bill Millar affect  
6                   us and I appreciate that very much. It has not  
7                   always been that way.

8                   And I think it is very true that every  
9                   administration that meets would say safety is our  
10                  top priority and, you know, it ends up being  
11                  another election. And that goes to one of the  
12                  things I wanted to talk about, which is  
13                  sustainability of the effort. I think it is that  
14                  the tragedies that bring us all here to form this  
15                  effort, I don't want to see that be a wasted  
16                  effort. I would like to see it not be a reactive  
17                  effort, but something that is going to continue  
18                  long-term. It would be good for the industry, be  
19                  good for the passengers, be especially good for  
20                  the employees.

21                  I think our charge is to try to elevate

1 safety in the industry. And in the whole every  
2 area both on the regulatory side and on the  
3 industry side. And to make that sustainable so  
4 that whoever comes after us can pick up and  
5 continue that on.

6 I also think that we need to look at  
7 maybe a little wider perspective than the  
8 regulatory perspective while we have an  
9 opportunity here to establish framework for  
10 regulation. I think that is a primary  
11 consideration. But I think there is other claims  
12 that we can do out of this type of format that  
13 don't necessarily take the shape of a regulation  
14 but take the shape of the framework for how we  
15 conduct our business and we keep our eye on the  
16 promise, don't let the regulation and the minimum  
17 standards become a goal. That we continue to  
18 address operational risk and that we continue to  
19 do that constant improvement that needs to be done  
20 in the industry.

21 And, so, on that regard, I think we need

1 to create safety as a value in the industry and  
2 sustained safety programs and for people on a  
3 training, education, all those things that  
4 everybody has already mentioned as being a  
5 critical factor.

6 At the risk of running on here and  
7 getting between us and the rest of the agenda, I  
8 will turn this over to Mr. Flanigon.

9 MR. FLANIGON: Thanks, everybody. What  
10 we will do now is take a quick 10-minute break.  
11 And when we come back, Peter is going to talk to  
12 you as a group regarding what the initial goals  
13 for the committee are. So I have 20 before 11:00,  
14 so let's come back at 10 minutes to 11:00.

15 (Brief recess.)

16 MR. FLANIGON: Next up on our agenda is  
17 to get to the meat of what we want to do over the  
18 next day and-a-half. The way I have been  
19 describing this to people is we are starting out  
20 at 50,000 feet, and over the next day and-a-half,  
21 we will get as close as we can to ground level.

1                   So, at this point in the agenda, we  
2                   resume the conversation with Peter Rogoff on what  
3                   it is that he as the Administrator is asking the  
4                   committee to take on. So without further ado, I  
5                   will turn it over to Peter again. I didn't have  
6                   to pick up the whole darn thing.

7                   MR. ROGOFF: I don't know. I will take  
8                   that risk. But I want to just again thank you all  
9                   and discuss one sort of administrative issue  
10                  before I lay out the formal tasking to the  
11                  advisory committee. And following my comments,  
12                  I'm afraid I have to leave and go back to the  
13                  building, and I will hand it to the able Chairman  
14                  Mike Flanigon and to Sean Libberton.

15                  And I should say I am really pleased of  
16                  the 21 members on the advisory committee who are  
17                  in attendance of this opening all but three. And  
18                  I have to admit, with some embarrassment, for two  
19                  of those individuals their absence is explained by  
20                  Jewish holiday. I am particular embarrassed as  
21                  one of the Jewish administrators to have made that

1 mistake, and I apologized to them, and I apologize  
2 to you-all for not having the benefit of their  
3 participation for very acceptable, understandable  
4 reasons.

5 I do appreciate Linda sending not just a  
6 surrogate, but a surrogate with extraordinary  
7 experience who could serve on this committee in  
8 his right.

9 I do want to say as a general rule, we  
10 are really going to push to have more  
11 participation by the principals. We will talk  
12 about this further later, but I think it is very  
13 important, especially if we are going to have  
14 consistency and for the committee to operate as  
15 effectively as it can be, that -- you, know we had  
16 some instances indeed for some of the people who  
17 sought nomination to this committee, one of the  
18 reasons why they might not have been selected was  
19 our concern that they could, in fact, be in a  
20 position to regularly attend the meetings.

21 So, we look forward to folks regularly

1 attending, and I will promise on behalf of the FTA  
2 that we will do a much better job of being mindful  
3 of all of the other issues like religious holidays  
4 when we schedule things.

5 I now want to discuss my formal tasking  
6 to the committee, and if any of you are  
7 questioning what the value was of that previous  
8 discussion, I have intended to break -- already  
9 developed a second one. So, you have one in  
10 writing, and I am going to call an audible on the  
11 second one, because one of the things that we want  
12 to take care of is to do this in a logical order.

13 So I'm going to discuss the first  
14 tasking that I mentioned and I will read the  
15 document which is now before you. It goes to the  
16 heart of this issue that many of you talked about  
17 this morning, and that is what can we learn from  
18 best practices in other agencies and in other  
19 modes on the industry side as well as the agency  
20 side.

21 We have talked continually that the way

1 one addresses those distinctions between trends of  
2 technologies that we are seeking to improve the  
3 safety performance on and to potentially regulate  
4 how we address the distinctions in technologies,  
5 how we address the distinctions in management  
6 structure, and how we address the distinctions in  
7 financing schemes is to get at what is sometimes  
8 generically referred to as safety management  
9 systems.

10 Some very positive things have been said  
11 about what the aviation industry has been able to  
12 do. A lot of the concerns and the challenges that  
13 people have talked about this morning, namely,  
14 having senior management totally cognizant of  
15 their safety responsibilities and take them  
16 seriously, having the necessary information as an  
17 agency to actually know what your greatest safety  
18 vulnerability is, the critical involvement of  
19 workers who are daily working on the system and in  
20 forming that picture.

21 All of those are part of what should be

1 the ideal safety management systems which we are  
2 going to effectively bring to bear across the  
3 entire rail transit safety universe. We need to  
4 know what we want to identify as best practices  
5 and what we want to put together.

6 So, in that regard, the first tasking  
7 for the advisory committee is to develop consensus  
8 advice to FTA on the best safety (inaudible) model  
9 for the rail safety industry to include safety  
10 management systems as in its principles and how  
11 those principles might be incorporated into  
12 transit safety plans to enhance rail transit  
13 safety. Also to identify the challenge that it  
14 may be facing implementing this model, along with  
15 potential ways the challenges may be overcome,  
16 issues requiring a specific report which we would  
17 write, with a target date to report to us by  
18 March 15, 2011.

19 This (inaudible) high reliability  
20 organization and SMS principles be integrated  
21 throughout transit systems, consider the diversity

1 of rail transit operations around the country, and  
2 can the recommended model be scaled to transit  
3 systems based on size and complexity. That item  
4 is listed as task number 10, which I presume is  
5 2010, number 1. I having to call an audible to  
6 articulate number 2.

7 One thing that is consistent both with  
8 car practice and what is envisioned under the  
9 Administration's transit safety bill and what  
10 continues to be envisioned, however with a  
11 slightly different funding picture in the  
12 currently pending banking committee reported  
13 Senate bill is the continuation of state partners  
14 in doing oversight and enforcement of federal  
15 regulations. In this case, obviously, I'm talking  
16 about the SSOs, a couple who are represented on  
17 this committee.

18 And we had a very good and I thought  
19 valuable discussion going around the table, and  
20 people seemed very engaged and interested in  
21 getting at the issue of what defines a quality

1 state safety organization. And it seems to me at  
2 this stage knowing that we are going to have state  
3 partners under any of the scenarios legislatively,  
4 it is not too soon to be talking about what  
5 defines the ideal state safety department in terms  
6 of their capabilities, in terms of their  
7 expertise, in terms of their relationship with the  
8 federal government, their relationship with their  
9 state government, the funding scheme of the state  
10 government and their relationship, obviously, with  
11 the transit agencies they would oversee.

12 And I would like the committee to start  
13 off trying to wrestle with that question as well,  
14 because that will be important. When people  
15 talked a lot about the need for consistency and  
16 the need for us to get to a point of  
17 certification, well, that is what is envisioned  
18 under the legislation, be it the federal -- the  
19 Administration's legislation or the Senate bill,  
20 the Senate bill would fund the agencies to the  
21 tune of 80 percent, while the Administration's

1 bill will fund to the tune of 100 percent.

2 The Senate bill would continue to  
3 require each state to have such an agency. The  
4 Administration's bill envisions a scenario where  
5 states, in certain cases, could opt out and have  
6 the FTA assume that responsibility in their state.

7 Those differences will be worked out one  
8 way or the other, but in either case, we will have  
9 state partners and we are determined to improve  
10 them. What the goal should be, what our end state  
11 should be as part of that improvement effort I  
12 don't think it is too early for us to seek to  
13 identify. That is the second tasking to you.

14 I think I will ask Mike, Sean, and I  
15 should identify Bill Millar to the council's table  
16 as well, I'm going to ask them to formalize that  
17 in the same written document that you have for the  
18 first tasking, so that could be shared before your  
19 meeting is out.

20 With that I do need to get back to the  
21 building. I do want to thank you again for all of

1 your participation, and to say hi to some of you  
2 that I have not met before. I looked forward to  
3 meeting many of you if not as part of this  
4 meeting, but during the next meeting. I was  
5 hoping to try -- I know that there is a brief  
6 reception this evening, I would want to come to  
7 that as well, but unfortunately, I am meeting with  
8 the Secretary at the identical hour.

9 And again, thanks for your efforts,  
10 thanks for the seriousness and purpose that you  
11 all are clearly bringing to this effort, and I  
12 think all of the transit passengers will benefit  
13 from as a result. Thanks.

14 (Applause.)

15 MR. FLANIGON: I can't get this mike  
16 out, so I will have to carry this whole thing  
17 around.

18 Thank you, Peter. We appreciate you  
19 being here.

20 This is really an exciting time to be in  
21 our shoes, I think, tremendous opportunities to

1 build on an already good record of the industry.  
2 And it is so cool to be where we are right now. I  
3 can't -- almost can't get over it.

4 Next up is going to be Sean Libberton,  
5 who is my boss and also the designated federal  
6 official, ably assisted by our Deputy Assistant  
7 Chief Counsel Linda Ford, to talk a little about  
8 the organizational structure.

9 And maybe I will just add one quick  
10 piece on that. One of the things about the  
11 Federal Advisory Committee Act is that this is a  
12 public meeting. It is open to anyone in the  
13 public who would like to sit in. And there are a  
14 number of folks, and we are glad you are here.  
15 But it is not a public hearing where there is  
16 direct interaction at every point in the agenda.  
17 We do have a time set aside tomorrow at -- I  
18 forget the exact time -- it is 9:00 -- 9:45 for  
19 any members of the public who would like to  
20 address the committee and share any thoughts that  
21 you might have.

1           So, if there is any members of the  
2 public here now who would like to do that, if you  
3 would let one of our staff folks know.

4           Can I also ask -- we didn't go around  
5 and introduce anybody, but we have a lot of people  
6 from FTA here. Could I have the FTA folks raise  
7 their hands. I know there are quite a few. And  
8 we are here to help you.

9           And, Esther, I will ask you -- Esther is  
10 way back there with the red -- very nice red  
11 jacket. So, if there are any members of the  
12 public who would like to make a statement tomorrow  
13 at 9:45, please let Esther know, and we will work  
14 you into that agenda.

15           The only other person I would like to  
16 just point out for very -- this is special day for  
17 Holly, who is with the FTA. It is her birthday  
18 today.

19           (Applause.)

20           MR. FLANIGON: One of the more kind of  
21 interesting things is that Holly's birthday is on

1           September 9th, which is 9/9, and our meeting today  
2           started at 9:00 o'clock, on 9/9, and we are  
3           meeting at a hotel that is located at 999 Ninth  
4           Street. So, I had to look this up on the  
5           internet, so it must be true, the number nine is a  
6           particularly lucky number in Chinese culture, an  
7           auspicious number, so I think it is a good omen  
8           that we are here on 9/9, at 999 Ninth Street.

9                         With that, I will turn it over to my  
10           esteemed colleague Sean Libberton.

11                        MR. LIBBERTON: It's not a coincidence,  
12           by the way. It was absolutely planned that we hit  
13           that lucky number nine --

14                        UNIDENTIFIED SPEAKER: It's not very  
15           loud.

16                        MR. LIBBERTON: I have got the light.  
17           Can you hear me? Thank you.

18                        And I will explain a little bit what the  
19           designated federal official is in a moment. I had  
20           to look it up in the reg prior to the meeting.

21                        I, too, want to thank everybody and

1 welcome everybody who is able to come from, in  
2 many cases, miles and miles away and cut into  
3 vacations to join us for today and tomorrow. I  
4 also want to welcome the public.

5 A little about bit about me, it is  
6 really unfair for Mike to call me his boss. It is  
7 true that the safety office is under the office of  
8 program management. It also runs the grants  
9 program and oversight engineering program. But  
10 Mike certainly has been more of a teacher and I a  
11 student on the issues of safety. You will see, as  
12 we get to the presentation, that we divided  
13 responsibilities for the task for TRACS to really  
14 take advantage of our capacities.

15 I want to talk a little bit about the  
16 operations of TRACS, but I do want to put it into  
17 a bit of a context, that is that this is FTA's  
18 first ever standing advisory committee. We have  
19 utilized FACA for negotiating rulemaking and other  
20 ways to reach and operate in full disclosures to  
21 the public. But this is our first advisory

1           committee, so it is a learning experience for us,  
2           as it is for many of you all, although I believe a  
3           few TRACS member have been on other committee.  
4           So, bear with us there.

5                        I'm going to be talking about how we are  
6           going to operate, and these are -- should be  
7           viewed an interim procedures. We are in the  
8           process of documenting formal procedures, which  
9           you will have shortly for full review of the  
10          membership. But for now these will be the  
11          operating procedures over the next several months.

12                      I will say these operating procedure are  
13          entirely consistent with FACA. They are  
14          consistent with our charter, and I want to make  
15          sure everybody has the copy of the charter, has  
16          read the charter. If not we, will get you a copy.

17                      I also want to tag on to Mike's  
18          acknowledgement of some FTA staff, because you  
19          will get to know several of us as you get to work  
20          in the advisory committee. And Mike acknowledged  
21          Linda. Holly and Richard Wong work with Linda and

1 support from the legal perspective and certainly  
2 provide me a lot of assistance on backup of  
3 clients.

4 Couple of other people that you will get  
5 to know is Bruce Walker and Iyon Rosario  
6 (phonetic), who will support you and the working  
7 groups as you begin to work and roll up your  
8 sleeves and start addressing the challenges that  
9 we have before us.

10 I see (inaudible) in the back who  
11 spreadsheet the team leader for the state safety  
12 groups. So these are all resources to you and  
13 will support you, and we will talk a little bit  
14 about that support.

15 There we go. I'm going to spend just a  
16 moment on a FACA 101, talk about the TRACS within  
17 that context, again how FTA supports the TRACS  
18 advisory committee. We will talk about the  
19 process and focus on the working group, that is  
20 where much of the work is done.

21 Peter touched on alternates. I will

1 provide another point or two on alternates and  
2 kind of meeting management protocols, and I will  
3 get to that again. But two quick protocols, if I  
4 may. One, if you have not already, please silence  
5 your cell phone, Mike.

6 And if you have a comment or question,  
7 rather than kind of wave your hand, if you  
8 could -- and this is going to be awkward at first,  
9 because we are still getting to know each other,  
10 but if you could somehow turn your card down or  
11 flip them up. I worry --

12 MR. INCLIMA: Like that?

13 MR. LIBBERTON: I practiced that  
14 earlier, and I couldn't get it to stay, so, if you  
15 are more able than, let's do that. But I do  
16 prefer that, because I can see your name.

17 Real quickly, the Federal Advisory  
18 Committee Act, passed in 1972, was, you know, very  
19 consistent with at the time of opening  
20 decision-making to the public and taken out of the  
21 bathroom and out of the hands of special interest

1 or perception of special interest. This is  
2 generic sunshine laws, and it is certainly  
3 consistent with that.

4 It is by law advisory committees are  
5 established only when there are considered  
6 essential for a federal agency to perform -- to  
7 carry out a responsibility. So that really gets  
8 to the importance of safety to federal transit and  
9 improving safety oversight and for your work in  
10 support of that. There are only, at any given  
11 time, between 900 and 1,000 advisory committees  
12 operating at any one time. So you are a very  
13 elite, select group.

14 Some of the objectives of the advisory  
15 committees is to provide advice that is relevant  
16 and objective. And as Peter noted, you are here  
17 to represent yourself and the public interest not  
18 your employer or agency. There is a bit of a  
19 tension, I would say, built within FACA that we  
20 must deal with. But there is tension between  
21 openness and public disclosure and the need to be

1           timely and to be efficient.

2                         And in fact, FACA, you know, says that  
3           the outcomes of our work should result in either  
4           improvements to service or in-service or reduction  
5           in cost. And that a committee can be terminated  
6           at any time when the cost of maintaining a  
7           committee exceeds the benefit that the  
8           Administration believes is getting out of it.

9                         So, we need to be mindful of that. We  
10          certainly, as you will see, we will provide a  
11          great deal of staff support to TRACS. And you  
12          will see that we have a lot of work ahead of us  
13          and that there will be pressure to be timely and  
14          to be committed through the working groups,  
15          through the tasks that Peter has provided us. And  
16          obviously to the need to document and disclose to  
17          the public, and that, in the large part, is my  
18          responsibility.

19                         FACA also ensures, as I mentioned, that  
20          it is the public and not interest groups that are  
21          part of the process does ensure public notice. It

1 provides for advance public notice for meetings.  
2 It allows the public to attend and participate.  
3 And we are obliged to make all committee materials  
4 available to the public.

5 Prevent service by individuals with  
6 conflicts of interest. There is no registered  
7 lobbyists that are part of the advisory committee.  
8 And it gives voice to the dissenters. And we will  
9 talk a bit about consensus in the moment. But the  
10 idea is to really seek unity on a position, not  
11 unanimity, so that we can bring recommendations or  
12 not that reflect the consensus of the committee.

13 So TRACS fits into that how? Well, we  
14 have established TRACS to help inform FTA policy  
15 making. We have selected you with your knowledge,  
16 experience and really the diversity of your  
17 perspectives. And I'm very pleased with the mix  
18 of talents and experiences and perspectives that  
19 you all bring, and we will see if we can bring  
20 more of those experiences to our future work.

21 So I want to talk about how FTA --

1 before I get into TRACS operation, how FTA  
2 specifically supports your work. The FTA  
3 Administrator recommended the selection of each of  
4 you to the Secretary for formal selection to  
5 TRACS. He appointed Mike as a chair and myself as  
6 the DFO.

7 I do want to acknowledge Eric Cheng Utah  
8 Department of Transportation, who is your vice  
9 chair, and will be carrying out an important part  
10 of our initiative.

11 Peter, the FTA Administrator, will  
12 assign tasks, as he just did and can withdraw  
13 those tasks at his discretion. He may consider  
14 TRACS' recommendations in policy and potentially,  
15 depending on the legislatim pending any  
16 regulatory, regulation following. The  
17 designating -- and I have already gotten that  
18 wrong, it's the officer, not official, which  
19 sounds strange to me, I should have a badge --  
20 really ensures that the committee works within the  
21 spirit and law of FACA. That is why Linda is

1 going to be so valuable to me and to us, as she is  
2 really the agency expert in FACA.

3 So our responsibility is to ensure  
4 compliance in some ways on the conduit between the  
5 group and the administrator. To ensure that we  
6 maintain the records and that meetings -- that the  
7 meeting minutes, the products of the group, again,  
8 meet FACA requirements and those of the charter  
9 and are made available to the public.

10 Now, in some advisory committees the DFO  
11 and the chair are one and the same. We purposely  
12 split that so that Mike Flanigon as your chair can  
13 really focus on the content and facilitating the  
14 meetings and developing the right agenda for our  
15 work. In a lot of ways, I'm the bad cop to his  
16 good cop, okay. He will facilitate our  
17 discussion.

18 I may step in where I feel that the  
19 discussion is lacking and is not in the best of  
20 interest for the work of the committee to proceed  
21 on a certain track, or to maybe stay on schedule.

1 Mike doesn't need to worry so much about schedule.  
2 That will be my responsibility. So you will hear  
3 from me rarely, but you may hear from me.

4 And, so, Mike is going to run the  
5 meeting. It is also important that he is really  
6 the liaison between the working groups and TRACS.  
7 Many of you -- most of you will be on working  
8 groups, but Michael will have that formal kind of  
9 liaison function.

10 I do see any upturned -- oh, I do see  
11 one. Yeah, please.

12 MR. INCLIMA: Just one question before  
13 we move off this slide. The first bullet says the  
14 chair and the vice chair assigns task. And my  
15 question to you is, does this committee as a body  
16 have the authority, whether it be by majority or  
17 by consensus, to reject the task?

18 We do have that authority at the RSAC to  
19 say we don't -- for whatever reason, we don't want  
20 to tackle that. I think that is something -- I  
21 mean let's face it, if you force feed us and we

1 don't want to do it, it's going to be a difficult  
2 process.

3 MR. LIBBERTON: I think if that is, by  
4 consensus, the will of the group, then yes.

5 MR. INCLIMA: Okay. Thank you.

6 MR. LIBBERTON: I should say, too, that  
7 you may suggest tasks to the administrator. And  
8 he may decide to then assign them, so to speak.  
9 Thank you.

10 MR. CHENG: Please allow me to say a few  
11 words.

12 When Mike called me regarding the vice  
13 chair assignment, basically I -- the first feeling  
14 is that I feel that it is a great, great honor to  
15 be selected for that position. But I talk to my  
16 management. You know, we do have some concern  
17 about the time and everything. But honestly, you  
18 know, I feel -- I feel everyone else but me, you  
19 know, is more qualified than me to be in vice  
20 chair. So, if you want to talk to Mike --

21 (Laughter)

1           MR. CHENG:  -- you are welcome to change  
2           this position.  Thank you.

3           MR. LIBBERTON:  We think of you as the  
4           vice chair.

5           All right.  So we want then to now spend  
6           a few minutes on really how we are going to roll  
7           up our sleeves and get things done.  It is not at  
8           these meetings that we spend a lot of time in  
9           details.  We certainly, as Peter has now tasked us  
10          with two assignments, it is going to be very  
11          important for us to understand how we work on  
12          those assignments and resources -- the format and  
13          resources available to do that.

14          Working groups will be set up to support  
15          each task.  And you should think of the working  
16          groups as staff to TRACS.  You will likely  
17          participate in those working groups.  And we have  
18          talked about and we still are developing some  
19          parameters.  It may be that we will insist that  
20          every working group have a minimum of four TRACS  
21          members, maybe a maximum.  We didn't think that

1 with just one or even now two tasks that that  
2 would really be a problem.

3 But as the committee advances and over  
4 time it is likely that there will be multiple  
5 tasks at any one time and, you know, the TRACS  
6 members cannot participate on all of those. But  
7 we do need some support and some direct  
8 participation by TRACS members in the working  
9 group.

10 The working groups meet as necessary,  
11 and that is really up to the working groups to  
12 decide how often and how those meetings should  
13 take place; if it should be in person, if it  
14 should be a conference call, a video conference.

15 FTA will facilitate and participate --  
16 people like Bruce and Lyon and others on my staff  
17 will participate and support to the extent  
18 possible. Think of them as that staff support to  
19 facilitate and make those meetings happen. We  
20 will talk with those in a moment.

21 The outcome of working group meetings

1 are reports. We have identified a letter report.  
2 We will suggest a format for that report. And  
3 again, that is part of the process that we are  
4 still in development, some standardization and  
5 consistency.

6 It is important to note -- that the  
7 TRACS working groups reports to TRACS and not to  
8 FTA. And we will talk about that distinction in a  
9 moment.

10 Working groups may further reach out and  
11 decide to establish task forces. Again that would  
12 involve people of -- members of the group and  
13 other resources, other individuals as you see fit.  
14 The process for reaching out to identify the  
15 working group or identifying additional working  
16 group members is for TRACS members to nominate  
17 others who they believe will contribute to the  
18 task at hand.

19 I think that is going to be extremely  
20 important, specifically for Peter's second task,  
21 state partnership. I think it may be to the

1 benefit to reach out, to solicit and recommend  
2 additional state safety oversight practitioners in  
3 the performance of that particular task. But that  
4 is really left at the discretion of TRACS  
5 membership how to basically identify folks  
6 nominated to the chair, to Mike, and then he will  
7 make formal selection of working group members.

8 I will pause. I see Rick has a  
9 question.

10 MR. INCLIMA: As we all promulgate in  
11 our mind the process, I just have a quick  
12 questions.

13 The first question is, I understood you  
14 to say that the TRACS committee members would  
15 nominate their subject matter experts or the  
16 folks, including themselves, to sit on the working  
17 group. Would it be accurate to say that then the  
18 working group as a body decides if they need the  
19 task force and who sits on it?

20 MR. LIBBERTON: That is fine.

21 MR. INCLIMA: I thank you for that.

1                   One word of caution, but certainly based  
2                   on experience that I would put on the table for  
3                   the group, I think it would be very important as  
4                   the working groups begin their deliberations and  
5                   discussions is to have -- you know, whether it be  
6                   the chief counsel, the economist, you know, folks  
7                   in the agency that are actually willing to, at the  
8                   end of the day, write the rule, write the policy,  
9                   you need to be in the room and hear all of that  
10                  deliberation, because a lot -- you know we have  
11                  seen it more than once where the group reaches a  
12                  consensus, and then when the consensus kicks out  
13                  in the final rule, it doesn't look anything like  
14                  what we thought we all agreed to and understood it  
15                  to be.

16                  So, it is important that the agency  
17                  participate, if not actively, at least you know  
18                  passively, in the process so that you understand  
19                  the dialogue and the direction and the will of the  
20                  working group and what they are really  
21                  recommending.

1                   MS. FORD: I agree 100 percent, and the  
2 Chief Counsel has made the commitment to have a  
3 lawyer assigned to each working group for that  
4 very reason. I'm actually the Assistant Chief  
5 Counsel for Legislation and Regulations, so it  
6 would be my office that would be responsible for  
7 drafting these regulations, and that is why we  
8 have Holly and Richard, and I want to acknowledge  
9 Mary Lee, who is an honors attorney, who is also  
10 providing support.

11                   So, absolutely, we will be on the calls.  
12 We will be at the meetings, and we agree with you  
13 100 percent. We have to hear what the committee  
14 wants.

15                   And then once we start drafting it, it  
16 would come to the committee. So we are hoping to  
17 avoid any surprises here, so the committee would  
18 draft, you know, the regulatory language as a  
19 recommendation to present to the Administrator.

20                   MR. LIBBERTON: It seems -- it is a fine  
21 line, in that it is your work, it is the work of

1 TRACS and the working group. We can support that,  
2 but I don't think that we would proactively make  
3 recommendations at a staff level to the work of  
4 the working group. I just want to clarify that,  
5 because again, it's the working group that is  
6 reporting to TRACS and not to FTA.

7 MS. FORD: Correct. But if we have a  
8 task and we are tasked with drafting regulatory  
9 proposal, then staff would do that for the working  
10 group. And go to the working group for approval,  
11 and then to come up to TRACS. So, it would follow  
12 that process. So, we are hoping to avoid any  
13 surprises.

14 Now, would I bring it to the chair's,  
15 you know attention, hey, our working group is kind  
16 of going off over here? I think I would. I am  
17 FTA staff. But, yes, the process would be, we  
18 would work with the working group to accomplish a  
19 particular task.

20 MR. PRENDERGAST: I think Rick stated it  
21 very well. There were a couple of instances in

1 RSAC process, you got to the end game, and the  
2 nuances of what the intent of the working group  
3 was lost, and the rule got written.

4 Another example is if you know for a  
5 fact you can't go a certain place as an  
6 administration, tell us up front, because if you  
7 can't get there, it makes no sense wasting all  
8 that time going through a consensus process --  
9 there is going to be some heated discussion, maybe  
10 not, but -- it is just a waste of people's time.

11 So, I do appreciate your comment. You  
12 don't want to be in the room unduly influencing  
13 where it will go. I don't think that is what we  
14 want.

15 MR. INCLIMA: I want to be sure that you  
16 are hearing what the group's intent is. You made  
17 a very good point. If you can't live with it,  
18 then tell us because you know we run into that in  
19 other places as well.

20 MS. FORD: And if I could just say  
21 regarding the tasks. You know, we would want to

1           hear from TRACS as to why a particular task is  
2           being rejected. I mean, why you think it wouldn't  
3           work. Or if we explained as the administration we  
4           are not going go in a particular direction, I  
5           think TRACS can still put together a write-up as  
6           to why you think it should go in a particular  
7           direction.

8                         So, at no point do we want to cut out  
9           the opinions or the advice from TRACS during this  
10          process.

11                        MR. LIBBERTON: So let's see where we  
12          are on this process. We have two tasks that have  
13          been assigned to us. We will use the rest of this  
14          meeting to discuss those tasks and to discuss the  
15          formation of the working groups. We won't have  
16          all of the folks identified for those working  
17          groups, but we will have some idea of the types of  
18          skills and quals that we need in those groups.

19                        We will then have an initial meeting and  
20          subsequent meetings of the working groups. Per  
21          our charter, those working group meetings will be

1 open to the public. That really goes beyond -- it  
2 goes beyond FACA, which is -- that is not a  
3 requirement if the working group is either  
4 reporting out to federal agency or the intention  
5 is that there is not going to be a discussion by  
6 the full committee of a working group's efforts.

7 Our intention is that the working group  
8 bring their products and their recommendations to  
9 TRACS for a discussion prior to advancing it to  
10 the FTA administrator. Nevertheless, we do intend  
11 that that process at those meetings be open to the  
12 public.

13 Once the working group has a report,  
14 they then forward that report and recommendations  
15 to me. I will ensure that it complies with the  
16 task and within FACA requirements and meets our  
17 procedure in our charter. And then we will work  
18 with Mike to put that product in a discussion, a  
19 presentation of this recommendation on the agenda  
20 of the next TRACS meeting.

21 TRACS will then consider at a meeting

1       like this the working group recommendation. And  
2       there are -- I want to read my note to get this  
3       correct, there are really three kinds of outcome.  
4       That if there is full consensus of the group to  
5       accept the working group product as is, it is  
6       forwarded to the administrator -- it is forwarded  
7       to me and it is then forwarded to the  
8       administrator.

9                It can accept and advance a working  
10       group recommendation with some dissenting views,  
11       or it can reject the product, the recommendations  
12       and send the working group back to work to flush  
13       out her direction in the consensus of the group.

14               In the absence of any consensus on how  
15       to proceed to accept or to reject, then the chair  
16       will make a decision on how to advance the working  
17       group reports.

18               The full TRACS committee is not the  
19       place to rewrite reports. We write  
20       recommendations. That is really our work, but it  
21       is the purpose of this group to provide the

1 guidance to the working group to develop, enhance  
2 and deliver a product that complies with the task.

3 MR. GRIZARD: I'm listening to the term  
4 "consensus," and I want to get into that just a  
5 little bit here in terms of -- the TRACS committee  
6 as a group now stands at, what, 22 -- 21. And  
7 Mr. Rogoff made the connection that, you know, not  
8 everybody is necessarily -- you know, we are going  
9 to try to get everybody to attend, but it is on  
10 their own dime type of thing and, of course,  
11 scheduling and priorities and things like board of  
12 director meetings, stuff like that get in the way,  
13 as well as religious holidays.

14 So, in terms of voting, do you have to  
15 be present in order to vote? Is there a quorum  
16 that you have to be present to maintain? And then  
17 is the consensus based on the people available  
18 voting at the time or is it for the entire group?  
19 And what would the consensus levels be? Would  
20 they have to be complete 100 percent consensus  
21 here or is 75 good, and 66 better and 50 percent

1           okay? How are you going to break it down?

2                       MR. LIBBERTON: Let me break down the  
3 questions.

4                       You must be at a meeting and you must be  
5 a member and not an alternate. We will get into  
6 alternates the next slide. But it is only the  
7 members who can provide consensus.

8                       We can -- I believe it is the DFO's call  
9 to -- if there is a meeting where there is not  
10 sufficient TRACS membership to really reflect the  
11 true consensus; in other words, if there are  
12 several alternates, we could delay the poling of  
13 consensus for -- at a later time. And you would  
14 have to work out how that occurs.

15                       You know, consensus, what we are trying  
16 to achieve with consensus is a position that meets  
17 most and the spirit of will of the group. There  
18 can be recommendations. So perhaps there are  
19 recommendations that don't achieve the unanimous  
20 approval or acceptance by the group, and consensus  
21 being working and at least trying to see if there

1 is a way of recommendation to be revised so that  
2 it does meet the expectations or the consensus of  
3 the group.

4 You can dissent -- I'm sorry. You can  
5 abstain. That does not equal a dissention. So  
6 typically, we would expect that dissent would only  
7 be exercised if a member feels very, very strongly  
8 about a position.

9 We can move forward without full  
10 consensus. And it is notable that, you know, part  
11 of the process is that dissention is recognized  
12 and noted and decided upon if we move forward with  
13 the recommendation.

14 Linda, I don't know if you have anything  
15 to add (inaudible) about dissention.

16 I will take a question.

17 MR. INCLIMA: Thank you, Sean. Again, I  
18 apologize to the members for having question after  
19 question, but, you know, I have some experience a  
20 lot of experience in the RSAC, and that is my  
21 frame of reference.

1           For clarity -- to clarify for the group  
2           I would suggest several things. First off, you  
3           have basically three levels of, you know,  
4           committee work. You have the full TRACS, you have  
5           the working group, and you have the task force.  
6           And you may decide consensus in those three  
7           separate arenas may be something different.

8           In the RSAC process, full consensus of  
9           the people who sit at the table and negotiation is  
10          required to move, you know, that issue up to the  
11          next level. So, at the task level, it is full  
12          consensus, they bring it to the working group  
13          level, they chew on it, they reach full consensus,  
14          they bring their entire full package to the RSAC,  
15          or in this case, the TRACS.

16          The RSAC works in a process of full  
17          consensus task force working group level, but at  
18          the high level, which would be TRACS here, it is  
19          majority consensus as opposed to full consensus.  
20          And that may be something you want to think of.

21          There is also an opportunity, and I have

1        seen it many, many times, and it is not a bad  
2        thing, it actually works.  If a member feels so  
3        strongly at the working group or the task group  
4        level that he or she must withhold consensus, for  
5        whatever reason, that doesn't mean that entire  
6        task, at least in my mind, falls down.  That has  
7        not been the experience with RSAC.

8                    Basically, you know, that are 20 items  
9        on the table, and you agree to 19, and you can  
10       move the 19 forward by consensus, you move it up.  
11       The one outlier that you can't reach consensus on,  
12       the agency just takes that -- you know, takes that  
13       on their own and says, well, I have got the  
14       benefit of the argument, the dialogue of the  
15       groups, and we have heard all of the pros and  
16       cons, and, you know, we have to address that issue  
17       number 20 and we will do that essentially as an  
18       agency, rather than through some consensus  
19       recommendation.  So, you know, that may be  
20       certainly suitable here.

21                    And I think it would help in the big

1 picture of things, Sean, if we had for the group  
2 to memorialize the, you know, the processes so  
3 that, you know, if you put it in your book and you  
4 realize as new people come in or whatever, okay,  
5 this is what consensus means, this is what we do  
6 with nonconsensus, this is how I handle consenting  
7 opinion to the agency. So, hopefully, you have  
8 all of that in your mind.

9 MR. LIBBERTON: Thank you. We don't  
10 want to hold up the work of the group for that.  
11 That is something that we are working on that will  
12 help guide your deliberations. These are -- again  
13 interim guidance to you with quite a bit of -- not  
14 intentional -- vagueness as we flush this out.

15 So I appreciate -- that is a good  
16 example to think about, just because you cannot  
17 reach consensus on several recommendations, it  
18 does not mean the ideas and concepts that have  
19 consensus can't move forward. So, thank you.

20 Just a moment on alternates. And Peter  
21 noted that, and I believe I seconded it, the

1           notion of an alternate not necessarily being -- it  
2           can be a colleague from an employer, but just  
3           remember that that alternate is there representing  
4           you and not the agency or institute that you are  
5           employed by. Again, you are there for the public  
6           interest.

7                     And again, the expectation this is going  
8           to be hard and this is a challenge, but it is a  
9           challenge I believe that you are aware of when  
10          nominated to the group, and we certainly took it  
11          into account in our selections, that you are going  
12          to make every effort to participate in meetings.  
13          That is our expectation. And we understand that  
14          this tremendous commitments and challenge that may  
15          be just on you on (inaudible).

16                    So, alternates certainly are a resource  
17          to you, if you cannot make meetings, but we really  
18          expect you to make the meetings. And we will  
19          certainly be sensitive to scheduling meetings  
20          where we can accommodate the most people as  
21          possible.

1                    Alternates cannot provide or block  
2                    consensus. They are really there to help in the  
3                    discussion, to report back to their member the  
4                    sense of the meeting and the issues. And as I  
5                    mentioned, if there is a meeting where there is  
6                    not enough membership where we feel that a  
7                    consensus can be reached, we will delay reaching  
8                    formal consensus until another time.

9                    MR. PRENDERGAST: There are a lot of  
10                    people here, and all these people have tremendous  
11                    responsibilities. And in past committees I've  
12                    been involved, if for those when you are taking a  
13                    significant decision, you can provide a means for  
14                    people to attend the meeting remotely for taking  
15                    the votes --

16                    MR. LIBBERTON: That's right.

17                    MR. PRENDERGAST: -- that does -- okay.  
18                    As long as you can clarify that, because that  
19                    gives people the ability to not find themselves  
20                    between a rock and a hard place. They want to  
21                    attend, they don't want to either not be there to

1 attend to vote, so that would be great if you  
2 could do that.

3 MR. LIBBERTON: Okay. Rick.

4 MR. INCLIMA: Again, going back to the  
5 last slide and the discussion about the  
6 alternates' responsibilities for authority. You  
7 know, I think you may want to at least reconsider  
8 that the alternate -- you know, the third bullet,  
9 alternates may not provide or block consensus.

10 In the RSAC processes, we use alternates  
11 all the time at the working group level or even at  
12 the full RSAC. And if the member of either, you  
13 know, any one of those three levels of the  
14 committee designates an alternate to participate  
15 in his stead, then that alternate should have the  
16 authority to agree with the group or disagree with  
17 the group, because otherwise, I mean, you know, as  
18 the work really gets going, if you are going to  
19 hold off everything going on at the table because  
20 there is an alternate here, I really think you are  
21 slowing it down.

1                   And it would make sense to allow members  
2                   to designate their alternates, and you know, that  
3                   person then acts in the same capacity as the  
4                   member in his absence or her absence. And  
5                   personally, I think that is a more fluid process  
6                   then saying, well, the alternate can participate,  
7                   but they really don't have a voice and a vote  
8                   here, you are just kind of a peg sitting in the  
9                   chair.

10                   And we have to go back -- I mean, when  
11                   you got a committee this big and getting bigger,  
12                   it may be detrimental to have that kind of  
13                   limitations on the authority of an alternate. I  
14                   just think that you ought to think about that as  
15                   you develop the written protocols of what the pros  
16                   and cons of the third bullet are.

17                   MS. FORD: Yes, I hear you, but the  
18                   limitation here is that -- at the RSAC you  
19                   represent an organization. Here you represent  
20                   yourself. And, so, the Administrator made a  
21                   conscious decision to have that particular

1 approach as such. You know, we would have to go  
2 through bio's and review of your alternates, and  
3 that is not something that he wanted to do. So,  
4 that is why your alternates reports back to the  
5 member.

6 We are fully aware of the way the RSAC  
7 runs. We are fully aware of the voting process  
8 within RSAC. But the Administrator made a  
9 different decision for this particular group. You  
10 are here as an individual, and no one can  
11 substitute for you. They can be here, listen,  
12 take notes and report back.

13 So that is just our limitation, and  
14 because we have made this commitment to  
15 individuals here, it would be extremely difficult  
16 to then reverse and go to an organizational  
17 structure as the way the RSAC runs.

18 MR. INCLIMA: Just as a follow-up, is  
19 that concept or a policy of the agency, does that  
20 flow to all three levels of the TRACS, or is that  
21 just for the full TRACS committee?

1 MS. FORD: Full TRACS committee.

2 MR. INCLIMA: Okay.

3 MS. FORD: At the worker level, you can  
4 have any --

5 MR. INCLIMA: You can have alternates,  
6 and they can -- really, that is where -- that is  
7 where the rubber meets the road and the work gets  
8 done. Okay. Thank you.

9 MR. LIBBERTON: Okay. So just really  
10 quickly some ground rules, and we will be all  
11 right everybody but me has gotten good at this.  
12 Do you have -- I'm sorry, sir, did you have a  
13 question?

14 UNIDENTIFIED SPEAKER: Thank you. Just  
15 to follow up quickly on what Rick said. I heard  
16 you say take notes, report back and listen. Did  
17 they have a voice?

18 MR. LIBBERTON: Yes, they are part of  
19 the discussion. All of the remarks be directed to  
20 the chair, or in his absence, the vice chair.

21 I don't think we need to really talk

1           about respect. I mean, this is a professional  
2           group. I understand that ideas elicit passions,  
3           and I would just remind folks that this is a civil  
4           discussion open to the public. I might remind  
5           you. So, please just use good judgment in the  
6           dialogue. It is important that you negotiate in  
7           good faith and we will do a lot of that.

8                         Again, pagers, does anybody still have a  
9           pager?

10                        MR. INCLIMA: That went out with the  
11           beta tape.

12                        MR. LIBBERTON: And just remember always  
13           the importance of this committee and the work that  
14           you do. And the work and the members of those  
15           working group, you don't have to just be on TRACS  
16           to make a very meaningful contribution to FTA in  
17           how we can improve and enhance the transit safety.

18                        Are there any other questions before I  
19           think we break for lunch.

20                        MR. PRENDERGAST: Are you going to make  
21           copies of these slides available to us?

1 MR. LIBBERTON: Yes.

2 MS. DAVIDSON: Can you predict or  
3 anticipate the regularity of the TRACS meeting?  
4 If we had some advance notification of a schedule,  
5 I think it would help with attendance.

6 MR. LIBBERTON: We know that we will do  
7 at least a minimum of two meetings per year, but  
8 that could be more. We can certainly I -- guess  
9 that is something that we will actually try --  
10 will we actually try to set the next two meetings.

11 MS. FORD: Yes.

12 MR. LIBBERTON: And again, that meeting  
13 schedule it is identified by the task and the  
14 interest and certainly the availability of the  
15 TRACS members.

16 MR. INCLIMA: Before we break for lunch,  
17 just as a housekeeping question, will the room be  
18 secure -- I mean, a number of folks have laptop  
19 and things, or should we take our laptops and all  
20 with us?

21 MR. LIBBERTON: We will be here.

1 MR. INCLIMA: Somebody will be here.

2 Okay. Thank you.

3 MR. LIBBERTON: And actually, thank you  
4 for asking that, simply so I can recognize Bob  
5 Adduci and several of his colleagues from the  
6 Volpe Center, who are providing us with support  
7 and providing you -- so we will get to know Bob as  
8 well.

9 Okay, Mr. Chair.

10 MR. FLANIGON: All right. Well, thank  
11 you, Sean. Thank you, Linda. Thanks, everybody,  
12 for your good questions and comments. And now  
13 here it is -- we can't go yet, it is not noon we  
14 have 2 minutes. It is just about 12:00. Our  
15 schedule calls for us to start up again at 1:30  
16 sharp, so we are on our own for lunch. I don't  
17 know the neighborhood that well. I know there are  
18 an awful lot of restaurants pretty close by. So  
19 we will see you at 1:30.

20 (The luncheon recess occurred from  
21 11:58 a.m., to 1:30 p.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

AFTERNOON SESSION

MR. FLANIGON: We are kicking off our afternoon session. We are very fortunate to have three very knowledgeable individuals to talk about safety planning models and elements of models, programs and plans and policies and procedures that can work to take organizations to the next level.

One of the things that I like to say about safety management is that good safety management is really just good management, that you can't separate the two. And I think that is going to come through with what we are talking about.

First up is Robert Sunwalt, who is an appointed member of the National Transportation Safety Board. He is appointed by the President and has previously served as vice chairman, had a long career in aviation safety, has been a pilot with US Airways, Piedmont, has run the flight safety department. He has worked with NASA in

1           developing aviation safety reporting systems. He  
2           has co-authored a number of books and over 85  
3           articles in aviation safety.

4                       And one of the things that ties him into  
5           the transit world is he has served as the chairman  
6           of the board of inquiry into the recent WMATA  
7           accident. And one of the things he mentioned to  
8           me as we were talking earlier is that as the  
9           chairman of that board of inquiry, he really  
10          pushed for getting the top leadership of the  
11          various organizations to be at the hearing and  
12          testify at the hearing. And there was a theme  
13          that I think you are going to hear throughout  
14          these presentations about safety starting at the  
15          top, and we have already talked about it today.  
16          So, I think this is the choir that you will be  
17          preaching to on this.

18                      And he also organized, as the last day  
19          of that hearing for those of you who might have  
20          tuned in, an educational session on how you  
21          (inaudible) reliability organization, which is how

1 I came to know Mr. Earl Carnes, who will talk to  
2 you later.

3 So, without further ado, I want to turn  
4 this over to Robert Sunwalt. Thank you.

5 MR. SUNWALT: Mike, thank you very much.

6 I wondered where you got all that  
7 information about me. It occurred to me that I'm  
8 the one who wrote it.

9 (Laughter.)

10 MR. SUNWALT: Thank you so much for the  
11 opportunity to be here. I think that this will be  
12 an exciting panel. This is something that I'm  
13 very passionate about, is safety culture, because  
14 I think safety culture, when we have a culture  
15 that is oriented and directed toward safety, that  
16 drives the things that we do and ensures that we  
17 do it with safety.

18 And, so, I have titled this presentation  
19 "A Road Map to Safety Culture." And originally it  
20 was titled -- at 7:30 last night, it was titled  
21 "Establishing and Maintaining a Safety Culture."

1           And by 8:30 last night, I had changed the title of  
2           it to "A Road Map to Safety Culture."

3                       And the reason I have changed it is  
4           because I don't think that you are ever there. It  
5           is a continuous process of striving to achieve a  
6           safety culture. So therefore, I think that we --  
7           this is a road map, a number of stepping stones  
8           that you can follow to get you well on your way  
9           towards a safety culture.

10                      On a number of occasions, the NTSB has  
11           recognized the lack of organizational culture of  
12           safety as a contributing factor of the accident.  
13           I pulled a couple of accident reports and scanned  
14           them in, and they are in all modes of  
15           transportation. This happen to be a highway  
16           accident. This is an aviation accident. And this  
17           is a transit rail accident, one that you are all  
18           familiar with, the WMATA accident at Fort Totten.

19                      In the Fort Totten accident, the NTSB in  
20           part of the problem we will call a statement, said  
21           contributing to the accident was WMATA's lack of a

1 safety culture, and also there were five  
2 contributing factors. These are two of the five  
3 that we are looking at, and number four was  
4 ineffective safety oversight by the WMATA board of  
5 directors.

6 So, we cited the lack of a safety  
7 culture and the fact that board of directors, in  
8 our opinion, was not tracking the right kinds of  
9 things.

10 So, what is a safety culture? I mean, I  
11 think there are probably hundreds of definitions,  
12 and I don't think that there is a right one or a  
13 wrong one. This is one that I was still working  
14 on, somewhere between changing the title of the  
15 presentation at 7:30 and finishing at 8:30 last  
16 night, I sort of changed it around a little bit.

17 I will show you two versions of a  
18 definition and you can create your own definition.  
19 But just to sort of put us all on the same page or  
20 two, if you will, instead of having safety culture  
21 as being some elusive thing, this is the way that

1 I look at it.

2 Safety culture is a set of established  
3 attitudes, values, beliefs, norms and practices  
4 where safety is revered, safety is revered,  
5 promoted and treated as an overriding priority.  
6 And it begins at the top of an organization, at  
7 the very top and it permeates throughout that  
8 organization. It has to start at the top.

9 And a month ago I went to a meeting  
10 hosted by the Nuclear Regulatory Commission, and  
11 it was on safety culture. And one of the  
12 definitions that they had come up with in NRC --  
13 and I modified this slightly, but basically the  
14 gist of what they say is, safety culture is the  
15 core values and behaviors resulting from a  
16 collective commitment by leaders and by  
17 individuals to emphasize safety over competing  
18 goals to ensure the protection of the people in  
19 the environment.

20 Of course, in the nuclear business, they  
21 are very concerned about, obviously, the

1 environment. So, that is why that is in there.  
2 But the point is that safety is emphasized over  
3 competing values. What might competing values be  
4 in the transit rail business?

5 UNIDENTIFIED SPEAKER: Production and on  
6 time performance.

7 MR. SUNWALT: Yes, on time performance,  
8 production, financial concerns. Are we balancing  
9 safety in the same group or is safety just  
10 something else?

11 So I have come up with a list of  
12 characteristics of effective safety culture, and  
13 four of these items are actually in the report  
14 that the NTSB did for the WMATA accident, and  
15 those would be the last four: Informed culture,  
16 reporting, learning and just culture. Those are  
17 actually spelled out in our report of the WMATA  
18 accident. And those four are taken from  
19 Dr. Reason's book, specifically in his book,  
20 "Managing the Risks of Organizational Accidents."

21 But the first bullet point I added in

1           there last evening, because I think that we cannot  
2           overlook the importance of the senior management  
3           commitment. And I think if Jim Reason were here,  
4           he would be saying right now, yes, senior  
5           management commitment is key to establishing a  
6           safety culture.

7                         So, let's take a look at each of these,  
8           beginning with senior management commitment.  
9           Safety culture is triggered at the top. And it is  
10          measured at the bottom. If you have got people up  
11          here saying that you want safety, but your people  
12          at this level here don't really get it, then you  
13          don't have a safety culture. And you can have  
14          people up here all day long saying they want  
15          safety, but if it doesn't work all the way  
16          through, you don't have it. Safety culture starts  
17          at the top of an organization and it permeates  
18          throughout.

19                        This is right out of the NTSB's report  
20          of WMATA. And it says: Senior management  
21          demonstrates the commitment to safety and a

1 concern for hazards that are shared by employees  
2 at all levels within the organization. We have  
3 got to have that senior management commitment.

4 Let's talk about what informed culture  
5 means. Jim Reason says that in an informed  
6 culture, the organization collects and analyzes  
7 the right kind of data to keep it informed of the  
8 safety health of the organization. The right kind  
9 of data.

10 As Earl is going to say in just a little  
11 while, the right kind of data is correct. We did  
12 find in the WMATA accident they were collecting  
13 data, but the information that was making it to  
14 the board of directors and the safety committee,  
15 operations -- customer service, operations and  
16 safety committee, the information that was making  
17 it to the board of directors was dealing with  
18 elevator outages, crimes in metro parking lots and  
19 stations, improper door operations, and it also  
20 looked at things like -- it did look at fires and  
21 derailments.

1                   But for the most part, the NTSB felt  
2                   that the metrics that the board of directors were  
3                   looking at was not the right metrics. They were  
4                   looking at basically production safety and not  
5                   process safety.

6                   Did I say that backwards?

7                   UNIDENTIFIED SPEAKER: You said it very  
8                   well.

9                   MR. SUNWALT: Okay. Thank you.

10                  So you have to look at the right thing,  
11                  don't measure the wrong thing, precisely. So an  
12                  informed culture the organization creates a safety  
13                  information system that collects, analyzes and  
14                  disseminates information on instance as well as  
15                  near misses, as well as proactive safety checks.

16                  What are some examples of those kinds of  
17                  things that you can use to keep your finger on the  
18                  pulse of your organization? Well, for one thing  
19                  safety audits, internal audits, external audits,  
20                  confidential reporting, employee feedback.

21                  And in the airline business we use a

1 program call flight operation or flight  
2 operational quality assurance, whereby the  
3 airlines download on a routine basis basically the  
4 information that would be on those crash  
5 recorders. In addition to having the black box  
6 crash reporters that the NTSB uses in solving an  
7 accident, the airlines have another data  
8 acquisition unit that can record at 250, 300  
9 parameters.

10 And on a routine basis, airlines look at  
11 that data. But they are not looking at the  
12 individual's performance. They are looking at the  
13 performance of the system. If they find an  
14 anomaly, they are not interested in finding out  
15 that Robert Sunwalt had an unstabilized approach  
16 flying into Charlotte. What they want to do is an  
17 aggregate to say, my goodness, we have had seven  
18 unstabilized approaches going into Charlotte this  
19 month, what can we do about the system to correct  
20 the system?

21 It is not a punitive system. It is a

1 system whereby we can find out where the problems  
2 are before there's an accident occurring. And the  
3 Safety Board has recommended that approach coming  
4 out of the Chatsworth, California accident that  
5 happened in LA. There are a number of ways you  
6 can keep your finger on the pulse.

7 A reporting culture is one way that you  
8 can stay informed. In a reporting culture,  
9 employees are open, they are even encouraged to  
10 report safety problems, and they will do that.  
11 They will report to you information that you need  
12 to know what is going on in your organization if,  
13 if you provide them assurance that the information  
14 will be acted upon.

15 I was a line pilot for an airline for 24  
16 years. There is nothing more frustrating than  
17 filling out a report to tell the problem -- to  
18 tell the company of a problem and then feel like  
19 nobody even read my report. But if the employees  
20 know that, you know what, we have a system, we  
21 want your information, we will listen to you, we

1 will evaluate what you are telling us, and if we  
2 feel that change needs to be made, we will. But  
3 on the other hand, if we for whatever reason can't  
4 make that change, we will still write you back and  
5 tell you why we are not going to change it.

6 But you close that feedback loop.  
7 Employees need confidentiality. They need  
8 assurance that the confidentiality will be  
9 maintained or the data be identified. No one  
10 wants to fill out a report if they are going to  
11 have some notice on the bulletin board that says  
12 Robert Sunwalt screwed this up, and nobody wants  
13 to do that. He is going to report knowing that  
14 that information will be confidential.

15 And people need assurance that they will  
16 not be punished or ridiculed for reporting. In  
17 the airline business, many of the airlines have  
18 what is called a non-reprisal policy. When I want  
19 to run a Fortune 500 flight department between the  
20 airline and NSTB, I basically took the airlines  
21 non-reprisal policy. It is about a three or

1 four-paragraph statement. It is posted. It is  
2 signed by the chief executive officer, might be  
3 signed by somebody else, but it's signed by the  
4 CEO.

5 And the long and the short of it is that  
6 the company says, we will not use this reporting  
7 system to initiate disciplinary proceedings  
8 against an employee who discloses in good faith a  
9 hazard or an occurrence involving safety, which is  
10 the result of conduct that is inadvertent,  
11 unintentional or not deliberate. You tell us  
12 information, we are not going to then use it  
13 against you.

14 How do you keep your finger on the pulse  
15 of what is going on in your operation? Are you  
16 taking corrective measures? Do you have multiple  
17 data sources, not just one of those ones that I  
18 put up there earlier where I talked about audits  
19 and confidential reporting systems and quality  
20 assurance programs; not just one of those, but  
21 multiple sources of information.

1                   You know, I flew airplanes for a long  
2                   time. My family really felt that those engines on  
3                   the airplane that I flew were very important. My  
4                   family wanted those engines to operate properly.  
5                   So in the cockpit of that airline, we didn't just  
6                   have one instrument that say engines, good, or  
7                   bad.

8                   We had multiple sensors. We had  
9                   engines -- N1, N2, EGT and fuel flow, fuel  
10                  temperature, fuel quantity, oil temperature, oil  
11                  property, oil pressure. We had multiple engine  
12                  instruments to signal to us the safety health of  
13                  those engines. And why? Because the engines were  
14                  darn important to us.

15                  So wouldn't you love to have sensors  
16                  located strategically throughout your organization  
17                  to signal to you the safety health of your  
18                  organization? And, in fact, you do. Those  
19                  sensors look like this.

20                  What do you have, 1,000, 2,000, 5,000,  
21                  7,000 employees that are out there working in the

1 systems day-to-day. They know what works, they  
2 know what doesn't work. Who better can signal to  
3 you the safety health of your organization, if you  
4 simply open the door and provide them with a  
5 reporting culture?

6 Jackie, you wouldn't believe how hard it  
7 was to get a picture of a subway worker. And at  
8 6:00 o'clock last night, all I was getting  
9 pictures of people that in the Subway Sandwich  
10 shop.

11 Another component that you need is a  
12 learning culture. And basically that means that  
13 the organization has to be able to learn and  
14 change from prior mistakes. If you are not  
15 learning from prior mistakes, you certainly are  
16 not on your way towards having a safety culture.

17 And finally you need a just culture.  
18 This is a term that is tossed around a lot.  
19 Basically a just culture means that employees  
20 realize they will be treated fairly. That not all  
21 errors or unsafe acts will be punished if the

1 error was unintentional.

2           Somebody goes out and makes what I will  
3 call -- use the term loosely, but if somebody goes  
4 out and make an honest mistake, they are trying to  
5 do the right thing but they create an honest  
6 mistake, are you going to punish that employee if  
7 they come to you and say this is what happened,  
8 this is why it happened, I think if this was done  
9 differently, we wouldn't have gotten into this  
10 situation? Do you want to punish that person?

11           If you punish that person, you will shut  
12 down a flow of information just like that. I  
13 remember going in to see a chief pilot one day. I  
14 wanted to tell him that we kept loading the wrong  
15 checklist into our airplane. There had been an  
16 error on this directive that came, and we had to  
17 change our checklist. And every time a mechanic  
18 would come out there, they would pull that one out  
19 and load the old one.

20           So, I told this chief pilot that. He  
21 said, you know what your problem is, I'm thinking,

1 I said I didn't know I had a problem. He said  
2 your problem is you are thinking too much. I can  
3 guarantee you I never have gone back to that chief  
4 pilot to tell him anything. And I was a pretty  
5 conscientious employee. But can you shut down the  
6 flow of information just like that.

7 Now, that is not to say that if somebody  
8 recklessly goes out -- someone is reckless or  
9 deliberately doesn't follow a procedure, that is  
10 not to say if somebody does that, you are not  
11 going to take some sort of -- consider some sort  
12 of disciplinary action. You can't tolerate people  
13 that recklessly don't follow procedures. But for  
14 those who are making the honest mistakes, you  
15 understand that we need justice. That is the --  
16 "just" is the root word of the word justice.

17 Jim Reason has written -- and I will  
18 show you the source for this in just a moment.  
19 Just Reason says that a just culture is an  
20 atmosphere of trust in which people are  
21 encouraged, even rewarded for providing safety

1 related information, but in which they are also a  
2 clear line between acceptable and unacceptable.

3 A good document for learning more about  
4 a just culture and probably will tell you more  
5 about it than you want, but it is from the Flight  
6 Safety Digest in March of 2005, they published  
7 this article, "A Road Map to a Just Culture.

8 And in there, Jim Reason says -- he  
9 emphasizes that a just culture is not a no blame  
10 culture. A just culture is not where you give me  
11 information and you "get out of jail free". Just  
12 culture is where we are going to determine which  
13 side of that line you happen to be on. The line  
14 of the honest mistake and we are going to learn  
15 from that, or the line of somebody that is  
16 recklessly going out and disregarding procedures.

17 So, we have some characteristics of an  
18 effective safety culture. You have to have the  
19 safety management committee. You need an informed  
20 culture, a reporting culture, learning culture and  
21 just culture. So sort of to wrap it up, Jim

1 Reason would like to say, do you have a safety  
2 culture?

3 And he goes on to sort of slap us in the  
4 face and wake us up. He says it is worth pointing  
5 out that if you are convinced that your  
6 organization has a good safety culture, you are  
7 almost certainly mistaken. For it is the -- a  
8 safety culture is something that is striving for  
9 but rarely obtained, and it is the process that is  
10 more important than the product. It is the fact  
11 that we were going out constantly striving to do  
12 better, it is that chronic unease that wakes up at  
13 3:00 o'clock in the morning and says, oh, my gosh,  
14 is this procedure that we just implemented, is it  
15 going to hurt somebody? It is that that keeps us  
16 on our toes.

17 So one way I look at it is you know you  
18 are on the right road towards that safety culture  
19 when the organization manages and values safety  
20 just as they manage and value other vital business  
21 functions.

1                   You know, thinking about finances. All  
2 of these Fortune 500 companies they are interested  
3 in finance. And to show that they appoint a chief  
4 financial officer, and they have generally  
5 accepted accounting processes or GAAP that they  
6 followed. They have procedures, financial  
7 procedures, audits and controls. They have  
8 accountability they have a Sarbanes-Oxley  
9 statement that on a quarterly basis the CFO or the  
10 CEO have to sign to say that we swear that under  
11 the penalty of law that what we are reporting to  
12 you is correct and we have these processes and  
13 procedures in place that measures our finances.  
14 But we are saying that finances are very  
15 important.

16                   Do we do the same things for safety? Is  
17 safety revered? Is it something that you put as  
18 much emphasis on as you do your finance, your on  
19 time performance, your reliability, or is safety  
20 just the guy that is down the hall down there I  
21 think it is the third door on the left? If that

1 is the way that your organization manages safety,  
2 I would suggest you are not on the right path to  
3 having a safety culture.

4 So, I really want to thank for your  
5 time. I think this is a fascinating discussion.  
6 Thank you very much.

7 (Applause.)

8 MR. FLANIGON: Thank you so much,  
9 Mr. Sunwalt.

10 What we are going to do is have each of  
11 the individuals make their presentation, and then  
12 we will have a roundtable discussion, where you  
13 can engage them and they can engage you. And I  
14 would hope that everyone on our committee is  
15 taking some notes, thinking about how this  
16 information might be helpful in meeting our tasks,  
17 because I think there is a lot -- there is going  
18 to be a lot to chew on here for us.

19 One of the things I was struck by that  
20 you mentioned, I think quoting Mr. Reason, that if  
21 you think you are there, you most likely not

1           there.  And I recall that coming up at the public  
2           hearing.  I don't know if it was Earl or one of  
3           the other folks at that public hearing saying, if  
4           you believe your own press, you are probably in  
5           trouble.  And somebody else said, well, another  
6           way to say that is, if you are breathing your own  
7           exhaust --

8                               (Laughter)

9                       MR. FLANIGON:  So, the whole idea is  
10           that there is -- you know, you are never quite  
11           there.  And I think that is a lesson for us, we  
12           are having a very successful meeting, I think, but  
13           this is really a baby step and we have a lot more  
14           steps to go through before we get to the point  
15           where we can say we still have a long way to go  
16           but we are making progress.

17                       So, with that, let me introduce next  
18           Mr. Tony Fazio, which is my DOT sibling at the  
19           Federal Aviation Administration.  He has been  
20           there for 28 years, and he has a number of  
21           positions with the FAA.  He is currently director

1 of accident investigation since 2009.

2 Over this past year has managed the  
3 merger of accident investigation with the office  
4 of data analysis to form a new office of accident  
5 investigation and prevention -- I'm sorry -- it is  
6 accident investigation and prevention. And the  
7 whole idea is to position the FAA to better meet  
8 its safety management responsibility.

9 His previous jobs included director of  
10 FAA's Europe, African and Middle East office in  
11 Brussels, Belgium. That sounds like quite a job.  
12 He holds a master's degree in public policy from  
13 the University of Maryland.

14 So, please join me in welcoming Tony  
15 Fazio.

16 (Applause)

17 MR. FAZIO: I always find it somewhat  
18 daunting when I have to follow a pilot. Even  
19 though I have 28 years in the FAA, I am not a  
20 pilot or an engineer. So I will tread lightly  
21 here.

1                   When Mike first asked me to do this  
2 presentation, he asked me to talk about SMS. I  
3 asked my folks, give me your SMS presentation? So  
4 they put together a presentation and then I saw  
5 your resumes.

6                   MR. FLANIGON: Put that up a little  
7 higher.

8                   MR. FAZIO: Is that better? That is why  
9 you never want to ride with a pilot. Have you  
10 ever driven with a pilot, they always get lost?

11                   (Laughter)

12                   MR. FAZIO: I had to get those jokes.

13                   So, anyway, I asked my folks to put  
14 together an SMS presentation. But I saw the  
15 composition of this panel or this advisory  
16 committee, I go, well, wait a minute, these guys  
17 can probably teach that course. So I'm not here  
18 to teach you about SMS. I think you are all  
19 safety professionals, you probably know the  
20 elements more so than I. I have only had 1 year  
21 in this job.

1                   So what I am going to focus my  
2                   presentation on is what we are doing in aviation  
3                   to apply SMS principles on a day-to-day level.  
4                   And I think we have some very good examples.  
5                   Robert alluded to several of them, I'm going to  
6                   kind of tie it all together, if I will.

7                   So, when I heard that Robert was going  
8                   to be on the panel and speaking about safety  
9                   culture, I said, wow, that is a perfect segue to  
10                  what I want to talk about, because everything I am  
11                  going to talk about cannot happen unless you have  
12                  that safety culture. I think you will hear it  
13                  from all three of us, and I am sure those of you  
14                  work in the field you cannot get your job done  
15                  without that culture.

16                  We can talk a good tune. We can put in  
17                  place the policies and the procedures and the  
18                  tools. But at the end of the day, they will just  
19                  flap in the wind if there is nothing behind it.  
20                  And vice versa, if you have a culture but you  
21                  don't have the tools and mechanisms, you can't

1           achieve what we are trying to achieve.

2                     Let me see if I can get this going here.

3                     So why are we applying SMS now in  
4           aviation? Well, those of you who know SMS know  
5           that many of the principles have been around for  
6           years. There is nothing new about safety risk  
7           management, there is nothing new about policies  
8           and promotions, that sort of thing or safety  
9           assurance. We all do some form of safety  
10          assurance.

11                    We put in place -- and SMS we are  
12          looking at a systematic approach, an integrated  
13          approach, and that's the difference. We decided  
14          we had to apply it to aviation because our  
15          industry has changed. Over the last 20 or 30  
16          years our industry has changed. You may not see  
17          it inside the airplane, composites now rather than  
18          aluminum. Avionics have changed. We are going  
19          from a ground-based system to the satellite-based  
20          system.

21                    So, the technologies are becoming more

1 and more difficult. We in aviation have obtained  
2 safety levels effectively while (inaudible). We  
3 have an accident there are (inaudible) random  
4 abates. Over the last couple of years now we are  
5 starting to see a plateau here. Effectively we  
6 have reached a point in our history to where it is  
7 hard to get better, so we have to apply new  
8 techniques.

9 Our business model is changing. I'm  
10 sure everyone in this room has flown Southwest or  
11 a regional carrier as part of coach. So, we have  
12 got to keep up with that. As a regulatory agency,  
13 that's very, very difficult. Maybe you are  
14 working in regulatory agencies. You know how  
15 difficult it is to change with the technologies.

16 And lastly we are seeing the demand in  
17 traffic post 9/11. It actually went down, but now  
18 we are starting to obtain those levels again. We  
19 are getting to the level -- we expect it to grow  
20 in the future. So, if we are going to maintain a  
21 safe system, we have got to put in place the

1 mechanisms to ensure we can do that.

2 So, I want to do this. These are the  
3 accident numbers we are looking at. If you can't  
4 see it, we basically have set benchmarks for  
5 ourselves that we will have no more than in this  
6 fiscal year 8.1 fatalities for 100 million  
7 passengers flown. When you translate that, this  
8 year we just had our first commercial accident  
9 last week, in fact, a UPS 747 in Dubai, two  
10 fatalities.

11 But those are the kinds of numbers we  
12 are looking at in aviation. Last year we had 52  
13 of (inaudible) accidents. So we are in double  
14 digits now, single digits (inaudible). I want you  
15 to focus in 1996, because much of what I will talk  
16 about emanates from that period. That was  
17 probably one of the worse periods in U.S. civil  
18 aviation history. We had a number of very high  
19 profile accidents; TWA 800, ValuJet, you probably  
20 all heard of those. So that is what we are  
21 looking at in our sector.

1           So the industry itself decided we have  
2           to adopt SMS. So two things have happened very --  
3           well, not recently but in the last few years. The  
4           UN organization for aviation is called the  
5           International Civil Aviation Organization. They  
6           have decreed that all service providers i.e.,  
7           airlines, air navigation service providers,  
8           maintenance facilities manufacturers of airplanes,  
9           ultimately will have SMS programs in place.

10           So, that is kind of a mandate that we in  
11           the United States will be following and have begun  
12           following. And just 32, 34 days ago -- this is  
13           very important -- Congress passed a safety bill  
14           which requires us, the FAA, to implement or  
15           publish within 90 days a notice of proposed rule  
16           making that will require SMS for all 121 operators  
17           in the United States -- 121 are all commercial,  
18           nine seats and above.

19           So, we are in the process of frantically  
20           writing a regulation that will implement that in  
21           the United States. So you will see that coming.

1       So, I throw that out there as this is just not us  
2       talking to you as safety professionals but the  
3       Congress, the international community has  
4       recognized that SMS is the way we have to go.

5               So, again, I don't want to preach to the  
6       choir so much, but basically, as I tell everyone,  
7       there is really, really nothing new here. When I  
8       first took this job, people said, well, you know  
9       we are going to SMS. I couldn't understand it.  
10      What do you mean?

11             And the more I looked at it, well, we  
12      do -- we have policies for safety. We do have  
13      risk management. Safety assurance. We have a  
14      boatload of inspectors they are out there looking  
15      at aircraft every day. And safety promotion, I  
16      can show you literature left and right, we all  
17      have it. It is all hanging on the walls.

18             The difference of course, is what you do  
19      with it. And you Robert summed it up right. You  
20      have to have the culture, you have to go the next  
21      step.

1           So, what we would like to look at is a  
2           systematic approach. It is tying all of those  
3           elements together. So you don't have a department  
4           that does your PR work, another department that  
5           does oversight capacity, another department that  
6           is over here writing the speeches for the chairman  
7           or whoever it may be. It is all tied together.

8           It is not easy, I can tell you that. We  
9           are trying to do that in our agency. But one  
10          thing I have left out is there are no SMS  
11          requirements internationally for the regulator.  
12          There are what we call state safety programs. But  
13          we at the FAA have decided that we will adopt SMS  
14          in our oversight safety, so we are going to be an  
15          SMS organization.

16          The FAA is one if not the only  
17          regulatory agency in the United States or in the  
18          world that is an ISO 9000 organization. We  
19          achieved that about 4 or 5 years ago. So, we are  
20          now taking that to the next step, which is an SMS  
21          organization.

1                   So again not knocking what Robert said,  
2                   we have to go out there, track the hazards find  
3                   the hazards, assess the risks and then take  
4                   actions to address those. Okay. We all do bits  
5                   and pieces of that, but we have to tie it  
6                   together. That is the key here.

7                   So, like I said, I don't want to dwell  
8                   too much. I just wanted to kind lay the baseline  
9                   for you, because there are some folks here are not  
10                  familiar with SMS principles.

11                  This little arrow, that is the key to  
12                  the systematic approach. So, again tie it up in a  
13                  nice bigger model here, you see the elements. And  
14                  if I were to draw this on my own, I would have  
15                  drawn another circle on the perimeter, that would  
16                  be the culture. This is all enveloped, that white  
17                  space would be your culture, because you can't do  
18                  any of this stuff without that culture.

19                  And I can't stress that enough, because  
20                  as we are trying to adopt this into a regulatory  
21                  agency, everybody has their own concept of what

1 SMS is, safety oversight is, we talked to you  
2 about that earlier. And, so, we really need to  
3 make that message loud and clear and crystal  
4 clear, because everybody will take what they want  
5 out of it, and that is really the culture piece  
6 and you have to model that.

7 I use an example. Mike and I are on a  
8 safety council. I don't think you were at the  
9 last session. One of the things we at the DOT are  
10 trying to work is on is the safety culture. And  
11 the example I use, some of you may know, those of  
12 us who are from the DOT know, the Secretary of  
13 Transportation issued a policy that as a DOT  
14 employee we cannot use cell phones in our car.

15 I made a point at the last safety  
16 council that should not have been necessary. We  
17 are all safety professionals. We should know  
18 that. But, yet, we don't act that way, do we, on  
19 our own? I notice you gave the exit announcement  
20 today. We are starting to do that, but we are  
21 safety professionals, we have to model that.

1                   So to have our Secretary in this case  
2                   tell us leads me to believe we still are not there  
3                   yet, we have a ways to go. But that is the kind  
4                   of message.

5                   I will also share with you another story  
6                   that I find fascinating. A former Associate  
7                   Administrator for Safety at the FAA was visiting  
8                   Dupont because Dupont is well known for their  
9                   safety culture and their SMS. And they got out of  
10                  the car, they parked in the parking lot and were  
11                  crossing the street. They were literally accosted  
12                  by a guard. The guard came up to them and said,  
13                  sir, we are a safety organization here, we  
14                  practice safety principles. You must cross at the  
15                  crosswalk.

16                  That is the message, that is the culture  
17                  that takes it from the top all the way to the  
18                  bottom. And that is what you got to do. That is  
19                  what we all have to do as safety professionals, we  
20                  have got to send that message.

21                  As part of defining what SMS is, you

1           have to define what it is not. For those of you  
2           who have regulatory capabilities, this is very  
3           important because we are starting to see this.  
4           Canada is probably the foremost, governmental  
5           authority that has adopted SMS and suffered some  
6           of these consequences. It is not a new buzz word.  
7           As I said, it is safety, we are doing it. It  
8           really it is just a matter approach.

9                         But the second one is one that I think  
10           we as regulators -- and you regulate here -- have  
11           to be reminded of. It is not a revocation or an  
12           advocation of your responsibilities. It is just  
13           the way you are going to fulfill that  
14           responsibility in the future.

15                        We had inspectors, and Canada suffered  
16           this, where they delegated a little too much to  
17           the industry, and the industry was  
18           self-certifying. And they got a lot of criticisms  
19           for that. And so, that is something that we tell  
20           our folks, you are not -- change the way you are  
21           doing your business, but you still need to provide

1 oversight, you are the safety regulator. It is  
2 not outsourcing. You will hear some of that, too,  
3 while we are delegating more and more, that is not  
4 going to be the case.

5 And lastly, you need a separate safety  
6 department. You need your safety department to do  
7 that integrated approach.

8 So, again, that is all I really wanted  
9 to talk about on SMS, the concept, the principles.

10 What I now want to talk about is what we  
11 are doing and have been doing in aviation for a  
12 number of years, by the way. Again, that is  
13 problem following the first speaker, Robert has  
14 talked about it, but I will go into a little more  
15 depth.

16 Again, this is my pitch for the culture.  
17 Again, we do a good job of looking at the past. I  
18 have some colleagues here from the NTSB, forensic  
19 approach, and looking at the accidents to try to  
20 learn from them. We have always done that. But  
21 we are now at the point in aviation we have got to

1 start looking forward. What are the issues that  
2 are going to get us before they turn into an  
3 incident and hopefully never a accident?

4 So the 3 areas that I'm going to talk  
5 about are commercial aviation safety team, we use  
6 acronyms, so I will refer to this as CAST;  
7 voluntary submitted information program, Robert  
8 talked about it, I will talk about it a little bit  
9 more; and lastly, something we are very, very  
10 excited about, which is our ASIAS program, which  
11 is the ability to now tie some of the things I'm  
12 going to talk about into a whole and predictable  
13 tool.

14 So if you recall, that chart that I  
15 showed you there was that big spike up in '96,  
16 where we had several accidents. Well, immediately  
17 after that, Vice President Gore formed an aviation  
18 commission. And that commission recommended that  
19 government industry get together and to begin  
20 looking at the causes of accident.

21 And what they recommended, which was

1           unprecedented at time, was a government industry  
2           partnership again. Again, we as regulators, we  
3           know how to regulate, but can we keep up with  
4           technologies, can we keep up with the way the  
5           operation are occurring? We hire folks from the  
6           industry, but they lose that capability very  
7           quickly, if you will.

8                        So, the idea is to bring the best minds  
9           together, and that is what occurred here. The  
10          idea was all voluntary. What you find adopt  
11          voluntarily. You will see that the industry on  
12          their own have adopted many of these suggested  
13          remedies, all data driven.

14                       Initially in '96 this was not known as  
15          SMS. It was safety oversight or the safety  
16          promotion, that sort of thing, but it wasn't known  
17          as SMS. But I draw this out, because this is  
18          effectively what SMS is.

19                       The goals. Eighty percent reduction in  
20          the fatal accident rate. When we heard that, we  
21          were like, oh, my goodness, it is not possible.

1 But, yet, as I will show you, we came pretty darn  
2 close. And then we continued that well beyond  
3 2007, which was the end date for that 80 percent  
4 reduction.

5 So, this is a makeup of all of the  
6 participants in CAST. And, so when I was  
7 preparing this, I was thinking, I imagine you have  
8 similar associations, unions obviously, you have  
9 NTSB (phonetic) but on the industry side, these  
10 are all of our participants: The manufacturers,  
11 trade associations, airports, engine  
12 manufacturers, flight safety foundation. We have  
13 a number of observers on the government side, DOD,  
14 FAA, NASA.

15 We do have a number of observers in  
16 Europe. Europe now has adopted ECAST, which is  
17 the European version of this. So, we are sharing  
18 the information that we are learning. So, again,  
19 this is a government-industry partnership.

20 The way it works is basically the teams  
21 get together or they did get together back them.

1 They looked at all accidents. They literally  
2 would scour through all the accident reports and  
3 find those causes of accidents, and then assign  
4 them to data analysis team.

5 The data analysis team would review  
6 that, rank the order of each of the casual factors  
7 and then assign an enhancement to these other two  
8 teams, who would then come up with safety  
9 enhancements. And those enhancements then would  
10 be looked at and then offered up to the industry  
11 as solutions to these problems.

12 So this graphically shows you what  
13 happens. Use the data, set your priority and then  
14 implement. And the beauty of this is now it has  
15 caught on internationally, so, you are seeing a  
16 worldwide reduction in the fatal accident rates  
17 data partly because of this, partly because of  
18 technologies. But at the end of the day, we are  
19 using the data to get to solutions.

20 So I mentioned the 80 percent reduction.  
21 We didn't get it. We got to 72 percent through

1 the CAST initiatives, we are getting an extra  
2 4 percent from other initiatives outside of CAST  
3 regulatory capabilities. If we have no accidents  
4 for the next year, we will reach 80 percent in  
5 July of next year. So, that's an enormous,  
6 enormous achievement, if you will.

7 But if you look at -- there are various  
8 contributing factors to accidents. CFIT was  
9 controlled flight into terrain. We virtually  
10 eliminated that. That is basically advertently an  
11 aircraft will fly into terrain of some sort. We  
12 have virtually eliminated that by using collision  
13 avoidance equipment in the aircraft. It's radar  
14 equipment. As you see, we virtually got the risk  
15 out of the system.

16 Again, this is all through using data,  
17 going back looking at the significant factors of  
18 that and then collectively as a body with  
19 government and industry working together to  
20 implement those solutions.

21 At the time this information is dated

1           they said there were 72 safety enhancements that  
2           were developed.  And once these safety  
3           enhancements are written, they are out there for  
4           the community.  So, now, what we are doing, we  
5           have actually worked over the last few years with  
6           China.  China has one of safest -- they had until  
7           last month, the safest accident record for the  
8           last 5 years.  They had no accidents for the last  
9           5 years.  They are adopting many of these safety  
10          enhancements.

11                         And the beauty is, in our industry,  
12           anyway, aircraft are aircraft and for the most  
13           part, operated fairly similarly, if they are not,  
14           some of the enhancements address that.  You can  
15           apply these across the board without significant  
16           changes.  You don't have to re-create the wheel,  
17           if you will, these guys figured it out, and put it  
18           out there, and that is what we are finding is  
19           happening in our community.

20                         The second area I would like to talk  
21           about -- and again, I'm doing this kind of

1 sequentially because I will tie it all up at the  
2 end here -- voluntarily safety programs. Robert  
3 alluded to FOQA (phonetic) which flight data  
4 recorder or quick access recorder, perimeters of  
5 the aircraft could measure up to 200, 300  
6 kilometers (phonetic) of aircraft. What is the  
7 aircraft doing at every moment, it is significant  
8 information.

9 Airlines -- most airlines are now using  
10 these programs for their own use. ASAP, Aviation  
11 Safety Action Program. Robert mentioned that he  
12 as a pilot would write up a report and submit it.  
13 These are now very standardized programs used in  
14 aviation. In fact, the first two are protected,  
15 so you as a pilot, you as a mechanic, you as a  
16 flight attendant, write up a safety action  
17 program. You can submit that, you are effectively  
18 indemnified by the FAA. It is accepted by a  
19 review board that it is not malicious,  
20 intentional. It was error. Is it used as a  
21 learning opportunity.

1                   You'll sit in front of the board. The  
2 board decides indeed this was a mistake, not  
3 intended. You are indemnified, because the point  
4 is we want that information. And I will show you  
5 some numbers at the end here of how many of these  
6 we are getting.

7                   Voluntary disclosure reporting program.  
8 Very similar to the ASAP, except that applies to  
9 the company. A company may find, oh, my god, we  
10 were going something totally wrong, FAA never  
11 caught us. But we think we are in noncompliance  
12 with regulation. We are going to self-disclose.

13                   The FAA will say, okay, fine, we will  
14 not issue a civil penalty on this, but you have to  
15 have a corrective action, and you have to do it  
16 within a certain time. If not, we can come after  
17 you.

18                   So, again, these are all incentives to  
19 get that information flow that Robert talked  
20 about.

21                   Just this last year, beginning

1           January 1, the FAA itself, our air traffic  
2           controllers now have adopted a similar program to  
3           ASAP called the ISAP. So controllers now can  
4           submit these reports and tell us, the FAA, I made  
5           a mistake here, I don't know why but this is what  
6           happened. So, now we can get that information,  
7           and what I will talk about towards the end here,  
8           we are tying all of this information together.

9                        This last item is not, quote, an FAA  
10           program. And all of this these first four are  
11           information that are shared with us the, FAA, via  
12           third party, I will tell you why I say third  
13           party.

14                       The last one is a program that has been  
15           in place for a number of years, LOSA, where the  
16           airlines themselves do check rides of their pilots  
17           and check their pilots with their own employees.  
18           Again, information that they can use to improve  
19           their operation, their safety operations. This  
20           information is not shared with us at the FAA.

21                       It is ultimately shared within the

1 community, because one thing that is now occurring  
2 is all of these individuals that are involved in  
3 these programs get together on a fairly regular  
4 basis and share information. It is called an info  
5 share information.

6 So, you will get the community coming  
7 together and saying, you know, I experienced  
8 unstablized approaches in (inaudible). It might  
9 be an example of people fixing it, similar things,  
10 because seeing things you guys have seen this in  
11 from another airline. I saw that, too.

12 That could lead to an ASAP report to  
13 VDRP or amongst the community itself, it will  
14 decide, we have to look at it, let's give it to  
15 the CAST.

16 So I mentioned the first two. Now what  
17 we are doing, we are bringing all of the  
18 procedures of the CAST mechanism with the data  
19 from the voluntarily submitted information all  
20 together. And we are calling this the aviation  
21 safety information analysis sharing tool. We are

1       able to do this simply because computer power  
2       today is enormous, terabytes, terabytes you can  
3       collect. We all have data. We just don't know  
4       what to do with it.

5               Now we have the capability of bringing  
6       that data together. So we are writing programs  
7       that create common taxonomies. I think I was told  
8       there is probably 20 different ways to say 747,  
9       for example. There are different ways that you  
10      record it. Again, you have tools that can bring  
11      all this together, and when you see a 7-4, you  
12      know it is a 7-4.

13              It is our ability -- and normally when  
14      we show this, we will show (inaudible) but this is  
15      our attempt to try to begin predicting the future.  
16      Reading all of these data sources together so that  
17      we can see a problem before it occurs.

18              We had examples of where we used it -- I  
19      won't go into it today, because I don't want to  
20      stress -- this is a tool that your industry could  
21      probably use or the capabilities, because whether

1       you are Metro here in Washington, one of the Metro  
2       passengers; I hope you will think about this, or  
3       BART, I would assume that you are collecting  
4       similar types of data. Well, why not start  
5       sharing that if you don't.

6                So the ASIAs is all of the members who  
7       either -- I shouldn't say all members -- 32  
8       airlines as of August 1, we are probably a little  
9       over that today, who are either providing the FOQA  
10      data or the flight information data or the ASAP  
11      data. So these are various airlines around the  
12      country that are participating. We are getting  
13      this information now into the massive database and  
14      able to -- so when Robert had an unstabilized  
15      approach, and he reported it to his management,  
16      that may have been one particular incident.

17               But if we get three or four other  
18      reports from other airlines or other pilots from  
19      his company, then you start seeing the bigger  
20      picture. You have got more data sources, more  
21      data points in which to make the same decisions.

1 ASIAS gives us that capability.

2 Now, I caveat this by saying, we, the  
3 FAA, do not get the information directly. You can  
4 imagine this is information that is very  
5 sensitive. Right? We are going to get as a  
6 separate report -- pilots don't want to be called  
7 upon, airlines are concerned about some operation  
8 data providing -- so all of this information goes  
9 to a third party, the MITRE Corporation. And they  
10 process this information both on behalf of the  
11 airlines and as part of this ASIAS consortium.

12 So I talked about the data sources. So  
13 we can focus -- I think there was -- I talked  
14 about these. These are the volunteers with  
15 proprietary information.

16 Now what we can do with this massive  
17 communication capability is we can start tying in  
18 information that we get that the agency has, we  
19 have radar data, for example, as the (inaudible)  
20 which is surface at various airports now can give  
21 you more accurate information than some of the

1 FOQA data on position of the airport grounds. We  
2 can tie that in with publicly available  
3 information in TSP databases, for example, and  
4 then other government agencies who participate.

5 So, now we are able to collect all of  
6 this information, and you can literally fuse this  
7 data to paint a picture. And, so, our hope is and  
8 I know we are going to get here, is we are going  
9 to start looking at the vulnerabilities before  
10 they happen. So, for example, we talked about  
11 unstabilized approach, this is a common problem,  
12 it is coming down over the years, but it is still  
13 out there. This is when a pilot comes in, he's  
14 not at the right speeds, high attitude, that sort  
15 of thing.

16 So, can we predict something on that?  
17 Well, we are not sure, but we know what we think  
18 is stabilized approach so we can draw boundaries.  
19 And then we can say, okay, here are the bands. If  
20 an aircraft is out of band, that might be a  
21 vulnerability. It may not be unsafe. It is just

1 different. We need to look at it. And, so, that  
2 is the kind of thing.

3 We are really at the infancy stages, so  
4 I will not show you too many examples of that.  
5 But that is the start of the things we are  
6 starting to look at, what is normal and what is  
7 outside of the norm. Do we have to study it as  
8 collectively as an industry?

9 So here are some of the data sources.  
10 Seven point two million operations of the flight  
11 data. This is as of August 1, I believe. This is  
12 the type of data we now have available to us as a  
13 consortium. These ASAP reports, these pilot  
14 reports is 75,000, the ATSAP report for air  
15 traffic was 14,000. I think that is much, much  
16 higher now. In the last couple of months we  
17 really generated a lot (inaudible) data.

18 And, so, the idea, this is the kind of  
19 information that is out there, and I suspect for  
20 your industry, this information exists also. You  
21 just got to bring it together.

1           So what do we do with it? We do a  
2           number of things. We do directed studies, as I  
3           mentioned the info share, if somebody highlights a  
4           problem, and I say we really should look at this  
5           issue. They will bring it back to the ASIAS  
6           executive board, which is cochaired by the FAA and  
7           the industry representative from Continental right  
8           now, and they will decide collectively should we  
9           look at this, and they will do a study.

10           They will look at known risks. The one  
11           element of SMS that is absolutely critical is  
12           we've done risk management and we put in place  
13           safety enhancements, but then you recheck to see  
14           if they have been effective. We have not had the  
15           capability of doing this. So, if we think we have  
16           corrected that unstabilized approach at a  
17           particular airport, we can go back now and see did  
18           that safety enhancement actually solve the  
19           problem? So it is that continuous loop, if you  
20           will, that is necessary with SMS.

21           Benchmarking is one that is particular

1       valuable to the airlines themselves. They can  
2       assess themselves. They know what their data  
3       says. We don't know because all of this  
4       information that comes in should be qualified it  
5       is all to be identified. So, we don't know from  
6       what airline, that particular operation is coming  
7       from. So it is all identified. But the airline  
8       itself knows what its information is. And they  
9       are now willing to share or I should say the other  
10      way around -- MITRE Corporation develop a  
11      benchmark saying this is what normal looks like.

12               The airline can say, well, I'm below  
13      that, I think I'm doing well, or I'm above this, I  
14      need to see why. So, it is an ability to do  
15      self-assessment, self-correction. I believe I am  
16      down to one.

17               So, SMS for us is going from looking at  
18      what happened to trying to predict what is going  
19      to happen. So we are going from a forensic to a  
20      prognostic. We believe safety risk management is  
21      the way to do that. We in the agency prefer you

1 to do that when we are making decisions. Our  
2 engineers are very used to that sort of thing, but  
3 our pilots, our mechanics and our flight  
4 operations organization are not. So we are going  
5 to try to come up with standardized ways of doing  
6 that.

7 These information tools that I spoke of  
8 like ASIAs we risk mitigation. So, hopefully, I  
9 was able to present some best practice that we are  
10 using in aviation that you are able to apply. So  
11 thank you.

12 (Applause.)

13 MR. FLANIGON: Thank you, Tony.

14 You know, looking at information about  
15 what we call near misses or errors whatever, I was  
16 doing some reading the other night, I think it was  
17 some of the SMS material, and something struck me  
18 as I was reading it that in being reactive, you  
19 know, looking at accident investigations and  
20 learning from them that's certainly necessary  
21 thing to do.

1                   But it is a very expensive lesson. And  
2                   that if you can get at incident before the  
3                   accident and learn from them, it is really a free  
4                   education as opposed to a very expensive  
5                   education. And I think that is where we really  
6                   want to go.

7                   Next up before we have our group  
8                   discussion is Mr. Earl Carnes. He is the senior  
9                   adviser for high reliability at the U.S.  
10                  Department of Energy, and he advises senior  
11                  management and contractors on efforts to improve  
12                  safety and performance in all areas of DOE  
13                  operations.

14                  He serves as liaison with the Institute  
15                  of Nuclear Power Operations, facilitates exchanges  
16                  of operating experience, effective management  
17                  practices, and so forth. He appeared as an expert  
18                  on high reliability organizations at the NSTB  
19                  hearing that we talked about.

20                  His prior DOE roles have included  
21                  technical assistant to the director of nuclear

1 safety, principal nuclear safety evaluator for  
2 emergency management, and policy specialist,  
3 looking at safety management systems. He's  
4 written the DOE human performance handbook and a  
5 number of other publications. And he also worked  
6 in the nuclear power industry before that.

7 Earl informs me also that he is no  
8 relation to the hurricane that tried to blow  
9 through the East Coast a week or so ago. Actually  
10 I think we have to thank for all of the good  
11 weather. Maybe you do want to claim kinship  
12 please welcome Mr. Carnes.

13 (Applause.)

14 MR. CARNES: Thank you all. I noticed  
15 some of you turned your heads one way, so I will  
16 shift over here so the others, your neck can rest  
17 a little bit. Personally I need it, since I have  
18 been flying a lot, like most of us, thanks to my  
19 friends. So, it is a pleasure to be here with  
20 you. How is the volume? Is it satisfactory?  
21 Okay. Thank you.

1                   It is like going to church, isn't it,  
2                   Robert?

3                   I have had the pleasure of knowing this  
4                   gentleman for a number of years and because a  
5                   number of us in the federal government have  
6                   regulatory responsibilities, investigative  
7                   responsibilities and et cetera, I would like for  
8                   things to work this way. We have found out that a  
9                   lot of us actively read, research and study to try  
10                  the improve to execution of our governmental  
11                  responsibilities.

12                  We have started calling one another, I  
13                  guess, 3 or 4 years ago, I think, something like  
14                  that we came together informally and formed what  
15                  we called the federal high reliability roundtable.  
16                  We hope to expand and gain a tremendous amount of  
17                  value getting together periodically. We spend a  
18                  day discussing the scientific literature that we  
19                  have been reading? How does it inform our  
20                  thinking? What are the experiences that we have  
21                  been having? What are the challenges that we

1           have?

2                         This has been going on for about 3 or 4  
3           years and I think that it is a very healthy thing  
4           now one brain or one organization   no one agency  
5           really is smart enough to know it all anymore.   I  
6           think you gave an excellent example of the  
7           collaborative nature of regulation, voluntary  
8           action, the activity influence, and all of that in  
9           a way that frames what I want to present to you,  
10          very briefly here that I have entitled "Highly  
11          Reliable Performance."

12                        I want to emphasize what Robert touched  
13          upon, that the core word is "performance." If we  
14          all have a mission to perform, whether it's  
15          aviation, rail transit, in my other life, the  
16          generation of electricity for nuclear power,  
17          science and technology in DOE, whatever, if we  
18          don't perform that mission, we are not going to  
19          stay in the business.   If we don't do it safely,  
20          we are not going to stay in business and we will  
21          either harm someone or harm the environment.

1                   So, it is the idea of performance.

2                   Number one, I want to emphasize to you.

3                   Number two, I want to emphasize an  
4                   argument that I continually make, and that is,  
5                   frankly, I would rather run our organizations  
6                   based on research then simply our opinion on how  
7                   we did business before individually.

8                   Let me put it to you like this. Before  
9                   I came to DOE, I was a management consultant  
10                  working with troubled nuclear power plant and  
11                  start-up plants. One of the last jobs I had  
12                  before I joined the government was working in a  
13                  plant in Texas. The executive assistant to the  
14                  vice president was a lifelong resident of the  
15                  state of Texas and she had a big sign over her  
16                  desk, as you approached you could see it. It  
17                  said, "Just don't tell us how you did it in  
18                  New York, " apologies to any you who might be from  
19                  the wonderful state of New York.

20                  There are many ways of looking at this  
21                  but I want to give you one frame of reference.

1           And that is the third point.  When we speak in  
2           terms of high reliability I look at my colleagues  
3           in the Department of Energy and other places.  And  
4           I try to make it a point that this is a framework,  
5           a way of thinking informed by years of research.

6                       And you may recall, some of you who  
7           studied this, the Peter Drucker made a living  
8           primarily from going into major organizations and  
9           asking what is your model of management.  Frankly,  
10          most of the people who are in charge of our  
11          organizations, executive management levels, are  
12          there because they are very good scientists, good  
13          engineers, good attorneys but they have never been  
14          trained in these things.

15                      We need a way up as our friend Carl  
16          (inaudible) the University of Michigan used to say  
17          of making sense of what is going on in our  
18          organizations.  Both of these gentlemen talked  
19          about the many ways that we use to make sense.

20                      I want to argue that we need a framework  
21          through which we can interpret what the data

1 means. That is the context of these two slides,  
2 if they will work.

3 A brief history. I lived part of my  
4 life in the academic world, part of it in the  
5 practical world, but I think that understanding  
6 history and the evolution of thought is important.  
7 So I take you back, many of you know these things,  
8 to the industrial revolution, and where we started  
9 looking at safety as Robert would say. How did we  
10 start looking at safety? Primarily from safety of  
11 the people who worked in the facilities. And  
12 before we started getting more knowledgeable, more  
13 informed, you know that this is the way we looked  
14 at things.

15 If somebody got hurt it was probably  
16 because it was their fault. Okay? Well, we know  
17 that is not true. We do know that as human beings  
18 there are certain things that we are very good at  
19 certain things we are not. For example, as  
20 someone talked about, talking on the telephone and  
21 driving on the beltway is not something we are

1 particularly good at doing, our attention is  
2 divided. There are psychologically reasons that  
3 are valid.

4 We need to be aware of those. We need  
5 to use those in our analysis and use them in our  
6 thinking is not always just our thought, okay, as  
7 if we intentionally did those kind of things. So,  
8 that is the old way of thinking. Okay. We have  
9 already talked about all of these things.

10 Today we are in a very complex world.  
11 As Tony was saying, the technology is changing,  
12 the organizations are changing. Old organizations  
13 are buying one another up, people are moving in  
14 and out. Technology is wonderful, but it also  
15 makes thing more complex because we have more  
16 data. Systems are more highly interrelated. So  
17 that the failure in one component can affect  
18 something over here that we never really thought  
19 of. Today we live in a context of increasing  
20 complexity. Both of the gentlemen and Mike have  
21 talked about the importance of understanding the

1 systems. Okay?

2 Now, also let me say that it is even  
3 more complicated, because I have a lot of good  
4 friends who are great systems engineers. They do  
5 good work but they just want you to go away and  
6 let them do their analysis. We have this messy  
7 thing involved, it's called people. People just  
8 don't behave according to the engineering  
9 equations.

10 So, it is not just complex systems, it  
11 is complex sociotechnical systems. The  
12 interaction of individuals, groups, social  
13 organizations, stakeholders, customers and  
14 regulators gets more and more complex. We have to  
15 have more or richer ways of thinking about how we  
16 manage our organizations.

17 Most of you are familiar with this but I  
18 want to emphasize it as Robert mentioned, two  
19 different models -- not the only models -- but two  
20 primary models that start the confusion, as Robert  
21 mentioned, the personal accident model and the

1 organizational accident model.

2 Many of you remember a few years ago I  
3 think it was Robert, it was the worse refinery  
4 accident that we had in the United States, I  
5 believe 14 fatalities and 40-some odd injuries.  
6 Our colleagues at the U.S. Chemical Safety Board  
7 investigated it and one of the recommendations  
8 were to have a review done by former Secretary  
9 Baker and his team. One of the key findings that  
10 they wanted to remind of us is that the presence  
11 of an effective personal safety management system  
12 does not ensure the presence of an effective  
13 process safety management system.

14 Worker safety is essential and most of  
15 the organizations in the world, when they speak  
16 about safety, speak about the safety of workers.  
17 That it is good that they do so, and it is  
18 essential. It is necessary but it is not  
19 sufficient.

20 Unfortunately, some big organizations,  
21 and we are seeing that play out today in the Gulf,

1 for example, that they do not fully recognize the  
2 difference in the systems model and a personal  
3 model, and that is where they start to go awry,  
4 first of all.

5 So, the emerging paradigm. Robert spoke  
6 about the whole idea of error, and the easiest  
7 thing to do when something goes wrong is to point  
8 to the people who were there at the scene and  
9 blame it on human error again, Jim brought to the  
10 attention to understand that error is not a cause;  
11 error is a symptom.

12 Let's look at this paradigm. In the  
13 traditional perspective of where we are going is  
14 that, of course, things go right because my good  
15 friends the engineers, of course, are so brilliant  
16 that they designed these systems that will work  
17 perfectly well, except for those nasty people  
18 called humans.

19 So, everything will go right because the  
20 systems are so well designed and maintained,  
21 designers can foresee everything, procedures are

1 always correct, right? We know -- any of you use  
2 procedures by the way? Okay. If you do, you know  
3 those fallacies. I personally have been a user of  
4 procedures, you have been a user of procedures,  
5 and people behavior as they are taught and  
6 expected to.

7 This idea of work as imagined versus  
8 work as it is done is one of the most important  
9 phrases, and I would recommend to your attention  
10 as you reflect upon your responsibilities because  
11 the two are not the same. Senior management has a  
12 view of the world, okay, that is based on paper.  
13 The people that have actually do the jobs have a  
14 view of the world that is based upon confronting  
15 equipment and confronting uncertain and less  
16 desirable situations than the paper condition.

17 The new perspective, the emerging  
18 perspective is that things go right because people  
19 learn to overcome design flaws and glitches, learn  
20 to adjust their performance to meet the demands.  
21 They interpret and apply procedures to match the

1 conditions. They detect and correct error, which  
2 is key to where Robert was going in one of his  
3 slides. Okay.

4 And so the difference is that the old or  
5 traditional perspective is that people are a  
6 threat, and performance variability must be  
7 eliminated. Now, personally I like to say that is  
8 a formula for insanity. Okay. You tried the  
9 drive out all error and all variability and you go  
10 either bankrupt or insane or possibly both.

11 The emerging perspective is that people  
12 are the key to make model technological systems  
13 function. And Erik Hollnagel is the lead on this  
14 work. It is very important to understand those  
15 distinctions and ask, as (inaudible) would say,  
16 what is your organizational model? What is your  
17 model that management will follow? What are the  
18 assumptions that underlie those models. Okay.

19 So this works during (inaudible) the  
20 Three Mile Island, what is now referred as high  
21 reliability organizations or shorthand high

1 reliability. It began after the accident at Three  
2 Mile Island. A lot of research is going on and  
3 our friend Karlene Roberts, who is also a witness  
4 for Robert, she is a professor at the Haas school  
5 UC Berkeley and others at Berkeley who are joined  
6 by Karl Weick and Kathy Sutherland from Michigan  
7 and others. I'm sure I have a witness here.

8 But starting off looking at the FAA air  
9 traffic control system is a very highly reliable  
10 organization. Yet looking at the USS Carl Vinson,  
11 the aircraft carrier, looking at the Diablo Canyon  
12 Nuclear Power Plant -- that is not the Diablo  
13 Canyon there, that is Three Mile Island, for those  
14 of you who are geeks like I am -- and, of course,  
15 looking at submarines, and now recently,  
16 particularly since the 1990s, starting to look at  
17 medical.

18 So, here is the point. We started off  
19 looking at those kinds of things, nuclear power,  
20 submarines and esoteric things and complicated  
21 things like air traffic control, but how does this

1 apply to other things? This is where the  
2 research -- this is an example of where the  
3 research has been -- again, I want to point to  
4 health care.

5 I have the honor of being able to work  
6 with the joint commission for healthcare  
7 accreditation and healthcare (inaudible) system  
8 throughout the United States. They have adopted  
9 the HR model, again, as a frame of reference, a  
10 way of thinking conceptualizing this system, the  
11 sociologic -- it is important to say socio  
12 technical systems model, thinking about how to do  
13 healthcare. Personally I think that is very  
14 important, as I am not as young as I used to be.

15 Manufacturing, the military, offshore  
16 platforms, police forces, civil aviation  
17 enforcement, nuclear power plant warfares,  
18 submarines, railroad operations, wildland  
19 firefighting. We have colleagues that work in our  
20 HR roundtable from the forestry department,  
21 wildland firefighting. Electrical transmission,

1 distribution, (inaudible) data study in  
2 California, school reform, particularly in the UK.

3 So, the point is the principles and the  
4 concepts we find to have researched have very  
5 broad applications. The specific representation,  
6 specific applications depend upon the work done  
7 there, but it has been found to have a very broad  
8 application.

9 So with that -- so where do we get to  
10 performance? Here I give you the reason I use  
11 nuclear power in addition to the fact it is where  
12 I have lived for many years. We have 30 years of  
13 data on how to use these approaches that we call  
14 the rubric of HR or high reliability.

15 Let me direct your attention here. This  
16 blue line, called the reactor trips and scram,  
17 this is when the reactor shuts down. When the  
18 reactor shuts down, you do not want it to shut  
19 down, that is not a good thing, because that tells  
20 you something isn't going quite awry in your  
21 systems. That is not a good thing.

1                   Also, by the way, if you shut down for a  
2                   day, it will cost you about \$2 million. So, that  
3                   is not a good thing. In addition it stresses your  
4                   system. You don't like that when your system is  
5                   like this.

6                   This thing right here, the green line is  
7                   called a significant event. Now, you want over  
8                   time is 85. You see what happens, trips and  
9                   scram, it is going down to about .5 per year  
10                  industrywide, okay. Right down here you could  
11                  see what is defined as a significant event in the  
12                  regulatory reporting criteria by NRC, you see it  
13                  is almost to zero.

14                  Now, the good stuff, first of all the  
15                  capacity factor. If a plant runs the maximum it  
16                  can run, 24 hours a day, 7 days a week, 365 days a  
17                  year, that is 100, 100 percent capacity. Usually  
18                  when this kind of work that we are talking about a  
19                  high level of (inaudible) sun, you know, it is  
20                  really getting started around about 1985. We were  
21                  running right around here, which is, what, a

1           little less than 60 percent. Right.

2                        You will see today that the average  
3           capacity factor is wide in the last figure I think  
4           we were probably right around 93 percent. You get  
5           a lot more production out of your equipment when  
6           you are running like that. About 30 percent  
7           (inaudible). The cost for kilowatt hours is  
8           consistently increasing.

9                        The point is the performance of your  
10          operation has improved and the safety of your  
11          operation has improved by doing the same things.  
12          That is where these concepts tie together to say  
13          if you really want an excellent organization, a  
14          high performing organization, these concepts are  
15          what you use to get safety and improvement which  
16          is what we want.

17                       The principles of high reliability are  
18          organizing as articulated by Karl Weick. Kathy  
19          Sutherland and other people have articulated it  
20          differently. (Inaudible). These gentlemen have  
21          both talked about these two things.

1                   One of the basic concepts, is  
2                   anticipating becoming aware of the unexpected  
3                   because clearly engineers can engineer and  
4                   designers can design for the things that we can  
5                   expect. That is not what gets us into trouble it  
6                   is the things we can't expect. So one of the  
7                   hallmarks of a highly reliable organization or  
8                   what seems to be highly reliable is what we  
9                   preoccupation with failure. Always say what can  
10                  fail, how could it fail? How could we be wrong?  
11                  What might we be assuming would be incorrect?  
12                  What could get us into trouble today?

13                   The attitude and the way of thinking  
14                   permeates the organization from the chief  
15                   executive office, the board of directors, to the  
16                   person who is working directly on the floor. We  
17                   have ways of facilitating that kind of culture  
18                   with those kind of techniques.

19                   Reluctance to simplify? We have already  
20                   addressed that because we know that our operations  
21                   are no longer simple. We have to help people

1       develop complex cognitive models. This is one of  
2       the reasons I emphasize models so much is to  
3       understand what is happening in the whole system  
4       not just in your area but what might your actions  
5       do to trigger something undesirable over here.  
6       How is work in another area perhaps affecting the  
7       work you are doing today? That is a big thing,  
8       and sensitivity to operations at all levels, okay.

9                 Robert mentioned CFOs and for example,  
10       in the commercial legal power industry, everyone  
11       in the whole organization is trained.  
12       Professionally developed on these concepts from,  
13       the board of directors there is an institute, a  
14       center for board of director education through my  
15       old organization who powers operations through  
16       Georgia Tech. For CFOs, HR directors and  
17       nontechnical directors, there is a similar center  
18       that is gone through MIT, okay. Then for line  
19       management everyone from first line leaders, the  
20       first line supervisors to CEO, there incidentally  
21       are professional development, all giving them

1           these same concepts. Developing a similar model,  
2           okay, is what this is all about.

3                       Then for the utilities themselves, there  
4           is training for every individual in the  
5           organization. Okay. For example, one of the  
6           things you do in aviation is the course of  
7           communication, the feedback and using a sort of  
8           communication protocols. So, you know, I can call  
9           one of these organizations the person who picks up  
10          the phone before you exchange the information back  
11          and forth, is going to use the alphanumeric  
12          communication protocol.

13                      The three-part communication, I say  
14          something to Robert, Robert will say something  
15          back to me, I acknowledge my understanding, those  
16          things are simple but powerful, okay everyone does  
17          that.

18                      Then something goes wrong, contain it.  
19          Emergency management and emergency preparedness is  
20          probably parallel but the commitment to  
21          resilience, being able to respond to the

1 unexpected and being drilled and drilled to be  
2 able to prepare ourselves, and finally have the  
3 efforts of expertise. What does that mean?

4 Let's go back to the main example. That  
5 means on the carrier when the ship is operational,  
6 the planes are coming in and going out, the  
7 admiral is not in charge. You know what I mean,  
8 the admiral is always in charge, but the admiral  
9 does not get in the way of the people doing the  
10 jobs. It is those young 19- to 21-year-old people  
11 who are on the deck, supervised by the chiefs, who  
12 are running the show. That is their job. They  
13 are the experts. Okay.

14 So understanding where your areas of  
15 expertise lie, who should be doing what job when,  
16 that is really the exercise, the orchestration  
17 that the chief executives need to understand,  
18 first the locust of expertise. Okay.

19 So now we have talked about in terms of  
20 the safety management system. Let me emphasize  
21 that this whole idea of high reliability cannot

1       succeed unless you have a robust safety management  
2       system. Again, we are going into this whole  
3       integration of safety plus performance, unifying  
4       them together.

5               So, this is from a couple of other  
6       comments Wrethall and Woods. This is one of his  
7       classical models, but also built into this is this  
8       thing of understanding, as Drucker would say, part  
9       of your assumptions that go into your model. You  
10      know, asking the question, well, do I have a basic  
11      model for my safety management system, is that  
12      person centered model, do I have complex model, do  
13      I have resilience model? One of the assumptions  
14      that feed into the various components of the  
15      model. The whole thing on measurement here, okay,  
16      and how you get into that.

17             So, again, I just -- I give you that,  
18      again, to emphasize that it is having the robust  
19      model because of understanding the assumptions  
20      that underline the model and articulating those,  
21      so you can know why it is you think the way that

1           you do. That is the goal.

2                       Then finally, these are what I would  
3 suggest for your reflection are basic  
4 considerations basic ingredients for high  
5 reliability. That is, of course, first adopt and  
6 adaptive systems perspective, that work is never  
7 the same as you imagine on paper. We have to  
8 define the acceptable bounds of difference. Okay.  
9 We have to understand what acceptable variability  
10 is. We have to empower the people in different  
11 conditions.

12                      For example, you want people to act  
13 differently in an emergency than they do in  
14 routine operations. I will give you a good  
15 example. You know, when it comes to someone who  
16 is seriously injured or there is a very volatile  
17 event like fire, what is more important, keeping  
18 the secured door closed which is there to protect  
19 vital documents, or getting people out of that  
20 area? Okay. That is always an issue.

21                      We want the prevailing wisdom to be

1 that, first of all, we protect human life. That  
2 takes priority over security of documents. We can  
3 handle that issue when the draw is opened. But  
4 those are decisions we have to make all of the  
5 time.

6 Using risk analysis to inform business  
7 decisions. Risk-informed decision-making, again,  
8 is a set of skills that we have to help people  
9 learn, and in learning and then embed into the  
10 processes of the organization, so that the safety  
11 priorities are always considered in any  
12 decision-making, particularly when it comes to  
13 financial decisions, okay.

14 Strategically invest in ongoing  
15 training. So many people think, well, we trained  
16 the person to do the job, they should do it  
17 correctly. Steel deteriorates, technology  
18 changes, things that Tony talked about. That had  
19 to always be reinforced, refreshed because of the  
20 changes that we talked about; making sure that we  
21 invest in our people because people actually solve

1 the problems. The technology is simply an enabler  
2 to the different approach.

3 Emphasizing an important analysis and  
4 change in management. Performance improvement  
5 analysis reporting has to become a core  
6 competency. It has to become part of everyone's  
7 job. Everyone needs to understand that they are a  
8 change agent, a reporting agent, an analyst and  
9 participate in that overall system -- these  
10 gentlemen have already said that -- seek to better  
11 understand work as done versus work that is as  
12 imagined. And the only way you can do that is by  
13 getting in there and watching work being done.

14 If management is not living out in the  
15 organization and walking down the space as we used  
16 to say it, you know, and getting there and  
17 understanding, then management is not doing its  
18 job. Management observation, employee  
19 observation, all of these multiple level  
20 observations are part of the daily intelligence  
21 system.

1           Balance expert and standard-based work.  
2           Everything cannot be reduced to a linear paper  
3           base procedure, but there are many different types  
4           of cognitive enhancements that point to this. We  
5           need to think of greater variety of that, how do  
6           we support people's cognitive processes and also  
7           understand that you can never, ever substitute for  
8           the true expert, but also being able to  
9           discriminate who is an expert, who is not an  
10          expert. That is a complicated equation, but it is  
11          essential.

12                 Finally, to engage everyone. As Robert  
13           said, you have thousands of eyes out there. Let  
14           me give you an example to close with. In a good  
15           performing nuclear power plant today -- well,  
16           along time ago, it was fewer reports, better. You  
17           know, that was like 20 years ago.

18                 Now we understand that a good performing  
19           nuclear power plant in the United States, the  
20           employee themselves are generating anywhere from 9  
21           to 11,000 items per year in the formal

1 corporate-wide, plant-wide system. All of those  
2 are analyzed and treated throughout the system.

3 If you are falling below that is an  
4 indicator that you have a concern. Okay. So it  
5 is that kind of collective engagement.

6 That is what I wanted to share with you.  
7 Thank you very much for the opportunity.

8 (Applause.)

9 MR. FLANIGON: Thank you very much.

10 When I spoke with Earl about doing this  
11 presentation, I remember one slide that shows the  
12 safety performance, the operational performance,  
13 the capacity, the problem cycles. I said, well, I  
14 would sure like you to include that, because I  
15 think it fits with that concept that I mentioned  
16 at some point earlier that good safety management  
17 is good management. There is really a link.

18 And from my reading, I'm coming to  
19 realize that is all part of the fourth pillar of  
20 safety management system and safety promotion.  
21 That if we can -- show how there is a payoff, that

1           it can lead to that increased volume and higher  
2           level from the organization.

3                        So now we have got -- these expert folks  
4           who have presented this information, and they are  
5           available to us as the committee to ask some  
6           questions and have some conversations and help  
7           inform us and guide us on our task at hand.

8                        Ms. McCombe.

9                        MS. McCOMBE: I have a question for  
10          Anthony.

11                       You talked about the safety management  
12          system at FAA and now you are moving to the  
13          industry, to the airlines, so that they  
14          incorporate safety management systems. So, are  
15          you thinking that the agency -- not the agencies,  
16          but the airlines will have the exact same  
17          processes as you? How are you complementing that?

18                       MR. FAZIO: I have to be careful about  
19          being in -- but effectively the way we are going  
20          to approach it.

21                       MR. FLANIGON: Move a little closer --

1 hold it a little closer to your mouth.

2 MR. FAZIO: Can you hear me now?

3 So where we are going to approach it is  
4 performance based. So it is basically a lot of  
5 guidance out there. You see guidance everywhere.  
6 The aviation sector, like we spoke of, (inaudible)  
7 a civil has put together a number of documents.  
8 We had some orders internally. They all say the  
9 same thing, so the approach in rule making is  
10 going to be a must have safety promotion, you must  
11 have safety.

12 Safety assurance. You have to show us  
13 that you are doing some type of safety assurance.

14 Risk management. You are going to have  
15 to have -- track your hazards and then  
16 appropriately assess them.

17 So, the way we are going to approach it,  
18 it will be a rule that basically performance base  
19 for SMS, and then for each sector, the different  
20 parts -- newer parts -- will have regulations for  
21 each sector of the industry. Then we will adopt

1           that sector to meet that umbrella part of the -- I  
2           hope I answered your question.

3                     MS. McCOMBE:   Yes, you did.

4                     So the FAA drove it initially, drove the  
5           SMS and created a great system.  You have taken it  
6           down to the airline level, slightly different but  
7           it will be performance based?

8                     MR. FAZIO:   Basically.  Again as I said,  
9           this has been going on for a number of years in a  
10          community of experts.  They know what they want,  
11          so what we did not want to do -- and this is  
12          something you have to consider in adopting -- is  
13          many companies are (inaudible) ISO, they have  
14          quality management systems.  They have safety  
15          assurance programs.  They have all of this in  
16          place.

17                    So, some of the pushback we are getting,  
18          in fact, is companies saying we don't want to  
19          reinvent the wheel, so that is why we are going  
20          with performance base.  So long as you can show  
21          that you meet these elements, four pillars and the

1 sub-elements of each of those pillars, I believe  
2 you have met compliance with the proposed rule.

3 Now, the question we have to grapple  
4 with is how to enforce that. These are issues  
5 that we are debating now. For example, the FAA is  
6 going to have to assure that you are doing that,  
7 because we are the regulator. Why couldn't you  
8 have a third party, use a standard, for example?  
9 Unlike quality management or an ISO, if you meet  
10 the standards, you are assumed as qualified.  
11 Those are some of the issues that we are grappling  
12 with now. We have to have a debate. It will be a  
13 pretty big response.

14 MS. McCOMBE: On the inspection side,  
15 how many inspections do you do a year per airline?

16 MR. FAZIO: Oh, my gosh. I don't have  
17 numbers exactly, but we have 4,800, I believe,  
18 inspectors.

19 MS. McCOMBE: 4,800 inspectors?

20 MR. FAZIO: Across the country. They do  
21 everything with the airlines themselves, the

1 operations capabilities to prepare assignments.  
2 They have inspectors that (inaudible)  
3 manufacturers and the world, that sort of thing  
4 parts for manufacturers. It sounds like a lot,  
5 but it really isn't.

6 A lot of what they are doing now they  
7 are going to a risk base experience also. One of  
8 the things we adopted years ago (inaudible). Air  
9 transportation oversight system, which is was more  
10 risk based, so put your resources where the  
11 problems are.

12 I don't want to use names, but if  
13 airline XYZ you have a great safety record, maybe  
14 you don't need as much oversight as Z over here,  
15 who has shown some excess in incidents. So, that  
16 is kind of what SMS will take you over time. It  
17 will focus your resources on the risks. It is not  
18 easy to do.

19 MR. FLANIGON: Len.

20 MR. HARDY: I have a question for Tony.  
21 Kind of following up on the discussion you were

1 just having, and that is you talked about  
2 performance-based evaluations, right? And you  
3 talked about benchmarking. When you talked about  
4 benchmarking, you talk about going through a third  
5 party And basically drawing in from the whole  
6 aviation industry.

7 Now when you talk about assessing  
8 individual carriers, when you talk about  
9 performance base, do you anticipate that you will  
10 come up with benchmarks that you will hold the  
11 industry accountable to? How would you measure  
12 performance base if you don't come you with some  
13 sort of a benchmark?

14 And is that in the works for you? Do  
15 you think that you will -- as work through this,  
16 that you will come up with benchmarking and that  
17 eventually you will look at carriers and base --  
18 assess their safety record, if you will, on the  
19 benchmarks and whether they meet certain  
20 benchmarks or not, and identify those that are not  
21 meeting the benchmarks and basically, you know,

1           that's where, perhaps some enforcement when you  
2           come in?

3                       MR. FAZIO:   So, first and foremost, we  
4           are regulatory agency.  We have regulations in  
5           place to enforce those regulations.  So, that is  
6           the bottom line, if you will.  So, the systems are  
7           going to be put in place to make sure that the  
8           regulations are being applied.

9                       The idea of benchmarks that I referred  
10          to earlier are more for the industry to do a  
11          self-assessment of itself.  I think I know where  
12          you are going.  Part of what we are grappling with  
13          in the aviation section is part of that amass is  
14          an acceptable level of safety.  And one of things  
15          that the international community we are all very  
16          (inaudible) aware of these, we in the United  
17          States have one level of safety, it may not be the  
18          same as, say, China or parts of Africa, so we  
19          don't want an acceptable level of safety that is  
20          applied equally across the world.  So, in that  
21          regard, that has created a lot of concern in that

1 community.

2 As far as benchmarking, I think as we  
3 evolve our systems, our oversight systems, there  
4 will probably be some type of benchmarking. I  
5 cannot tell you exactly what they are going to  
6 look like. I think we have to do that. I mean, a  
7 certain number of reports, for example, might be  
8 acceptable versus some that not might be.

9 MR. FLANIGON: Tom.

10 MR. PRENDERGAST: Tony, in your third  
11 party system where you try to guarantee anonymity  
12 so that you are providing for a free flow of  
13 information, do you have any protections against  
14 or limitations on other third parties who may, for  
15 litigation purposes, want to access that data for  
16 individuals and lawsuits and things of that  
17 nature?

18 MR. FAZIO: Excellent question. In  
19 fact, that is the dilemma we find ourselves in  
20 today. So when I spoke of protections, if you are  
21 providing confidential submitted information under

1 Part 193, which is a regulation that protects ASAP  
2 reports and the FOQA reports, you are protected  
3 from FAA enforcement. Unfortunately, you may not  
4 be protected from civil law. So, that is  
5 something, actually, the community is very  
6 concerned about.

7 We -- in our reorganization bill that is  
8 pending for 3 years now, the community has come  
9 together and asked Congress to provide some type  
10 of protection for litigants or against litigants,  
11 and I have seen draft language that would attempt  
12 to do that. Unfortunately, our reorganization has  
13 not passed, and is not likely to pass this year,  
14 so we don't know where that is going to go. But  
15 that continues to be a concern, if you talk to  
16 flight safety foundation, do you want to say some  
17 of this, too, that is a perpetual concern for the  
18 industry.

19 MR. PRENDERGAST: The reason I raise it,  
20 I mean, a number of people here would share it, is  
21 that I don't have a feel for the frequency of what

1 kind of litigation magnitude you see in the  
2 aviation industry, but on a local transit level it  
3 is significant. I mean, it is -- there are  
4 ambulance chasers that put up their signs  
5 everywhere.

6 And it is something that, you know, you  
7 never want to have to be in the way of getting the  
8 data, so eventually we will have to cope with it,  
9 but it is just -- with what is the best way to  
10 cope with it, because we don't want to say we  
11 don't want to participate in the system just  
12 because of that exposure.

13 MR. SUNWALT: I'm not attorney, so this  
14 is not legal advice, but the attorneys that I hear  
15 speaking about this very issue, point out that if  
16 these programs are considered best practices and  
17 then you don't have them, then you are probably  
18 opening yourself up for more damages because you  
19 didn't employment them to prevent the accident in  
20 the first place.

21 So that is sort of the thinking that I'm

1 hearing in the aviation community. And if you  
2 don't have any of the problems then you are not --  
3 then you are not held to that standard.

4 MR. PRENDERGAST: I totally agree. I  
5 mean, the day of the general counsel telling me  
6 they don't want information because they don't  
7 have to defend against it, you generally fire  
8 those general counsel.

9 MR. FLANIGON: Just from the standpoint  
10 of the task at hand, in looking at these elements  
11 of safety planning systems and what might work in  
12 the rail transit industry, I think we are being  
13 tasked with looking also at what might  
14 challenge -- what challenges there might be and  
15 what methods might we look at to overcome those  
16 challenges. So, those are certainly thoughts to  
17 kind of work into the equations as we do our work.

18 Other questions? Rick.

19 MR. KRISAK: I reading the reference  
20 material you gave us on the FAA SMS system, there  
21 was some reference in there to the involvement of

1 the states, individual states. What would  
2 involvement did those individual states have in  
3 the FAA SMS?

4 MR. FAZIO: So, the document you  
5 received was, I believe, a document put out by the  
6 airports organization. So that wasn't on like --  
7 transit systems are involved in overseeing by  
8 states or by authorities. So, I don't work in  
9 that area, I'm on the safety side of the house.  
10 So I suspect if, you know, the state or the local  
11 municipality owns that airport, there is going to  
12 have to be a linkage back to -- they have  
13 responsibilities, they are operating that airport,  
14 they are going to -- in fact, I didn't mention it  
15 when I spoke of the rule making for the airlines,  
16 the airports organization also is going to be  
17 putting out SMS.

18 So my suspicion is it ties back to the,  
19 as the state is the operator -- I think we are in  
20 Maryland, BWI, the State of Maryland they have  
21 responsibilities, but they will have to be the

1 SMS.

2 MR. KRISAK: The reason I bring that up  
3 is because, you know, we seem to be moving towards  
4 the model where we want state safety oversight to  
5 remain in place as an entity, a part of this  
6 increased regulation, but with an enhanced FTA  
7 role.

8 And my question, I guess, would be, if  
9 you guys had that structure, if you had to work  
10 within that structure where the major, you know,  
11 leadership role and oversight role were the states  
12 and not through a centralized FAA, how would you  
13 envision being able to roll out a program like you  
14 have?

15 MR. FAZIO: Well, you know, I would  
16 see -- they have to see us to their advantage.  
17 While we are talking safety, they are enormous  
18 (inaudible) to adopting the system. It is  
19 important (inaudible) to be focused on the safety  
20 side, you save money by being a safe organization.  
21 So, again, the airport side of the house, we can

1 mandate them because have federal redemption.

2 So, I would just sell the point that we  
3 are all care about safety. We care about doing it  
4 economically to save resources, because again, you  
5 also will hear a lot about in terms (inaudible).  
6 Safety is just one element. You have  
7 environmental management systems, you have  
8 occupational health safety system or systems, so  
9 there -- it is all good business practice, if you  
10 will. So I would sell it in that regard.

11 MR. KRISAK: And I guess I bring that up  
12 more as a concern to the group than to the FAA,  
13 but, you know, our model that we are talking about  
14 is a significantly different structural  
15 organization from what the FAA is doing. And I  
16 think we need to figure out how we are going to  
17 grapple with that, because we are empowering the  
18 states to a much higher degree than, say, the FAA  
19 does. We are more than an airport owner. We the  
20 operator. We are like the airline in your model.

21 MR. FLANIGON: Dave.

1           MR. GENOVA: I think it's interesting to  
2 observe that this is performance-based  
3 requirements, and I would just make an assumption,  
4 I don't know much about the aviation regulations,  
5 but I assume you have a whole bunch of  
6 prescriptive requirements about aircraft  
7 standards, systems standards, maintenance  
8 requirements, inspections.

9           And, so, is this the first time FAA is  
10 looking at putting in performance-based  
11 requirements in addition to all of the very  
12 prescriptive requirements that you have?

13           MR. FAZIO: No, it is not the first.  
14 But you are right, we have a lot of prescriptive  
15 regulations. But honestly, (inaudible) we are  
16 (inaudible) 7 years, and we are going more and  
17 more towards performance-based regulation. It is  
18 probably the best way to go as far as assuring  
19 what you want to accomplish that you are going to  
20 accomplish.

21           The dilemma, of course, comes in in

1 enforcement and interpretation. And, so, because  
2 of that, what you have to do as a regulator is  
3 write very good guidance material both for  
4 regulative part and for new inspectors, because,  
5 you know, it is all interpretation. But you can  
6 write the standard in such a way that, you know --  
7 again, SMS, I don't think will be that difficult.

8 There are concerns and I have expressed  
9 them to our inspectors. They have to adhere to  
10 the guidance because we are often, as a government  
11 entity, accused of heavy hands. We will get  
12 individuals. So we talked about best practices.

13 We also had bad practices. We had  
14 inspectors that want to go out and enforce all the  
15 time, write the ticket anyway. And that is not  
16 conducive to this just culture. So it takes  
17 cultural change not only regulating the community  
18 but also the regulator.

19 MR. GENOVA: Just a follow-up comment --  
20 actually this is on the HRO. And I made an  
21 observation when you had -- under some of those

1 principles earlier, you had about containing the  
2 unexpected when it occurs. And I think that in  
3 system safety, we can almost use a risk indices to  
4 say, well, the probability of this occurring are  
5 so remote that we can do this.

6 And it seems to me that HRO principles  
7 are in conflict with that, where we should be  
8 actually working on those things that are going to  
9 be unexpected and how are we going to manage it  
10 when they do happen. So, I just thought that was  
11 an interesting distinction between HRO and system  
12 safety.

13 MR. CARNES: I am not sure if I exactly  
14 how you -- sidebar I look at it this way. Is that  
15 I'm a big fan of risk assessment, you know, I go  
16 to the biannual, you know, PSAM, Probabilistic  
17 Safety Analysis Management conferences, and I  
18 think it is made a tremendous amount of difference  
19 of risk informing not only our inspection, our  
20 regulatory processes, but management you know --  
21 that said, whatever we can expect, whatever we can

1 analyze, we can plan for.

2 But it is not the things that we  
3 understand that bite us. And there are things at  
4 all levels, regardless of whether I'm a mechanic  
5 or whether I am the CFO that I may think I  
6 understand that I don't. The key distinction that  
7 I hope to draw is that it is that feeling of  
8 uneasiness, that humility in what we know that we  
9 try to engender through the kind of culture that  
10 Robert was talking about.

11 When I talked about assumptions, I will  
12 leave it with this, is whenever we are making  
13 important decisions and doing critical work, you  
14 know, always trying to understand what do we know  
15 versus what we do not know and why is it that we  
16 trust the defenses that we put in it place is a  
17 difficult conversation we have to have and to have  
18 it continually. Thank you very much.

19 MR. FLANIGON: I think down there.  
20 Jackie.

21 MS. JETER: Thank you. I first wanted

1 to tell Mr. Sunwalt, I will make sure you get a  
2 picture of an operator to put in your slide.

3 (Laughter.)

4 MS. JETER: The second is going back to  
5 what you know and how you know. How do you know  
6 when you have a system that is practicing the  
7 safety culture and, you know, the high reliability  
8 and all of those things, because there is no  
9 reporting mechanisms for anyone? And, so, I know  
10 common sense tells me it is a system that is not  
11 having any accidents, but from this accident, I  
12 know that is not true.

13 Sometimes it is the accident that is  
14 waiting to happen that just haven't happened yet.  
15 So how do we know as an industry who is doing the  
16 right thing and who is doing the wrong thing.

17 MR. SUNWALT: Jackie, that is a great  
18 question. And I don't think I have a real good  
19 answer for that. But I do want to bring up that I  
20 think a metric for safety -- that the wrong metric  
21 for safety is a lack of accidents. And I think

1           that is what WMATA fell into. Our last fatal  
2           accident was January the 13th, 1982, and that has  
3           become a long time ago. And so, therefore, we are  
4           safe.

5                     You know, we heard -- when we met with  
6           the board of director 4 weeks ago, we did hear  
7           some of the board members say that. We thought we  
8           were safe, since we had not had an accident in a  
9           long, long time.

10                    So, I wouldn't suggest that lack of  
11           accidents be a metric. I think it is quite  
12           contrary, and it is what Earl said a little while  
13           ago. Years ago people used to think that if we  
14           are not getting a lot of reports, that is good  
15           news; but in reality, that is bad news. You want  
16           lots of reports.

17                    And really you never know what you don't  
18           know. And that is the scary thing. So,  
19           therefore, you want to get as much information as  
20           you can possibly analyze to look for those trends.

21                    But it is a great and that is why I

1 think this preoccupation with failure, which is a  
2 characteristic of HRO is good, because you never  
3 are completely satisfied. I think when you start  
4 feeling like you are safe, that is when something  
5 is going to bite you.

6 I hope that gives you some answer to the  
7 question. I don't really have a good answer for  
8 it, other than we keep looking for information.

9 MS. JETER: Thank you.

10 MR. FLANIGON: Ed.

11 MR. WATT: Yes, for Robert, and anyone  
12 else can jump in if they have any thoughts. Is  
13 there any literature on the effect of psychosocial  
14 factors and other occupational attributes that  
15 contribute to a subculture? I mean, being a  
16 pilot, you know, there is a subculture there,  
17 there is a subculture with train operators and  
18 track workers, but they are all different. And  
19 they are influenced, obviously, somewhat by who is  
20 drawn to the job, you know, the nature, but they  
21 are also affected by the nurture, what happens to

1 people when they are on the job, what is expected  
2 of them, how they review justice, procedural  
3 justice.

4 So do you have any research or thinking  
5 how that -- how those connect the subculture to a  
6 culture of -- to the entire organization of  
7 organizational culture?

8 MR. SUNWALT: I really don't -- I will  
9 turn it over to Tony and Earl. I think Earl may  
10 know something on that. I really don't have any  
11 specific literature.

12 MR. WATT: Well, let me give you a  
13 little help, which I didn't want, because it is a  
14 bad example. And as the lawyers say, bad cases  
15 make bad -- is our friend the flight attendant who  
16 pulls the cord.

17 Well, you know, obviously, things just  
18 happened to him. And it is a bad example, because  
19 he is probably wrong on a couple of levels. But  
20 still, unfortunately, there is -- and I don't -- I  
21 don't find myself often in sync with popular

1 culture, but he became idolized to some. He was  
2 elevated to a hero.

3 And there has got to be something in  
4 there that people said, yeah, that is parts of my  
5 job that I don't like and they have done that.  
6 That is kind of the things I'm trying to get at,  
7 and would it be valuable to measure that, I guess?

8 MR. SUNWALT: One attribute of a safety  
9 culture which is -- you know, I had to boil this  
10 down in a couple of (inaudible) points but I think  
11 in other research that I have seen, work done by  
12 Dupont, one thing that is very important is  
13 procedural compliance. And I think that you can  
14 measure procedural compliance for a number of  
15 things through audits and focus groups and things  
16 like that.

17 So there is a linkage between complying  
18 with established procedures and safety, I believe.  
19 And Dupont has done work on that.

20 I am going to turn it over to these  
21 folks and see if they reference to something else.

1           MR. FAZIO: I am far from an expert on  
2 this, but I know there are behavior psychologists  
3 that work with culture science. It is behavior.  
4 And I read a report on -- in fact, a submission in  
5 aviation -- attributes you can look for to see if  
6 you have a safety culture. That is more of a  
7 macro, I think. You are looking more at the  
8 micro. I don't know how to address that one.

9           MR. CARNES: I will be happy to share  
10 literature with you, but let me start off with  
11 Dr. Edgar Schein, MIT, the macro level of  
12 organizational culture. He is probably one of  
13 the -- he is known for collecting (inaudible). Ed  
14 Schein, Dr. Ed Schein, I can give you the  
15 information. He is (inaudible) gentleman. He  
16 gets into subcultures discussion.

17           So, that approach is one level. Friends  
18 of mine in Finland, (inaudible) have some  
19 excellent -- primarily solution and procedure  
20 operation where they discuss different techniques  
21 that you can use to go -- and I'm big, as you

1 probably can tell, going into the workplaces and  
2 interacting and trying to understand what the  
3 subcultures are.

4 So, they have had some interesting ones,  
5 particularly on maintenance culture, how to  
6 understand maintenance culture, and again, that  
7 work that is imagined versus work that is done,  
8 and also understanding, as you were saying, the  
9 assumptions that you may have subculture in  
10 maintenance organization.

11 So, there is that kind of literature and  
12 it is on psychodynamics, that kind of stuff out  
13 there, we can -- my kind of business, you know, I  
14 don't think you would go that extreme, but you  
15 know we have psychologically profiles based on  
16 people that we allow to do certain kind of work  
17 and all of my prior life, you know, what goes into  
18 the standard, you know, in the VA and all of those  
19 kinds of thing to make sure that, you know, the  
20 appropriate things -- of course, in our -- so,  
21 yes, there is a body of literature. I can help

1           you access some of as to a few observations.

2                   MR. FLANIGON: I think Diane is up next.

3                   MS. DAVIDSON: I'm interested in how you  
4 operationalize the safety culture, and in  
5 particular for FAA. I believe you have nine  
6 regions. What role do the regions play in safety,  
7 in carrying out the various directives, because  
8 you have a very large population? I think you  
9 have four regulatory disciplines or four  
10 disciplines that are then regulated. So, what  
11 role do the regions play?

12                   MR. FAZIO: Trying to think back. It  
13 has probably been about 15, 18 years ago we  
14 centralized all policy and procedures into  
15 Washington. So the regions themselves basically  
16 perform that policy or enact that policy. So,  
17 what you see, unfortunately, and one of the  
18 biggest criticisms you will see in aviation is  
19 that one facility or one office will apply  
20 regulations differently than another.

21                   And, so, one of the reasons why we

1       decided to go to an ISO quality management system  
2       was try to pose a standardize process. So, this  
3       is the process for certifying airplanes. This is  
4       the process for certifying aircraft or parts, this  
5       and that. Everybody follows it, and we test  
6       ourselves against it by evaluation.

7               So we attempted to do that and have we  
8       been successful. I think we made progress. We  
9       have a lot further to go, obviously. We still  
10      hear stories that (inaudible). I think a lot of  
11      it comes down to leadership. We as a safety  
12      order -- I'm not speaking of the whole FAA, I'm  
13      now speaking of the a safety organization, we are  
14      7,000 strong. So we have a lot of  
15      responsibilities for the airplanes and the  
16      manufacturers.

17              We do a lot. We try to get out and  
18      (inaudible). As a member of the executive team,  
19      we go -- we have been asked by my boss, who is the  
20      director of safety, to go out and meet with ever  
21      facility out in the country. There is over 100.

1           So, we are taking time out to go out and preach  
2           the same gospel, if you will.

3                       So, personally, I think a lot of it  
4           comes from -- if you have all policies and  
5           procedures, it is great, but at the end of the  
6           day, it has to be leadership. So, you have to get  
7           your middle managers to (inaudible). In 2 weeks  
8           we are bringing all the middle managers from  
9           around the country into Washington to begin this  
10          dialogue. It is a very, very difficult job.

11                      MS. DAVIDSON: Kind of a follow-up for  
12          that. In terms of compliance and after  
13          enforcement is conducted, I believe you have  
14          something called airworthiness directives. Do you  
15          still use those?

16                      MR. FAZIO: Yes.

17                      MS. DAVIDSON: And if I understand that,  
18          it is not a fine-based system, but it is  
19          corrective action system. Are fines involved in  
20          that, and if so, what looks to be most effective  
21          fines or certain conditions of not being allowed

1 to fly or other associated actions until  
2 compliance is reached?

3 MR. FAZIO: Well, an airworthiness  
4 directive basically is a regulation, so an  
5 aircraft certificated is supposed to meet a  
6 certain level of regulations, of standards. We  
7 should have airworthiness directives to say, well,  
8 we missed it. We didn't get it right. The  
9 intervals are not correct. We have to do less or  
10 more, whatever it might be that brings it to the  
11 level of safety to where it is certified.

12 So, that is a little different than --  
13 fine for that. We, the regulator or the industry  
14 manufacturer did not see that occur, so we have to  
15 fix the problem immediately to do that for rule  
16 making (inaudible).

17 I think where you are going is more of  
18 the enforcement, civil penalty route. You know,  
19 that goes up and down. There is a period there  
20 where we enforced a lot, we imposed possible  
21 penalties, and we adopted the just culture. We

1           are trying to find that happy medium. I don't  
2           know where it is.

3                     I mean, we just issued announcement last  
4           week, I believe, \$24 million to American Airlines.  
5           It is the largest on record. And, so we found it  
6           pretty egregious. It will have to work its way  
7           through the system, but -- if they were not  
8           compliant with an airworthiness directive. So it  
9           goes up and down.

10                    My personal view is I think you can do a  
11           lot with just culture. Why? I don't think anyone  
12           wants to break a rule. I mean there are bad  
13           actors, there is no question about it. I would  
14           say 90 to 95 percent are trying to do the right  
15           thing. So, you know, you have got to have a  
16           measure --

17                    MS. DAVIDSON: Thanks.

18                    MR. FLANIGON: Bill is up next.

19                    MR. GRIZARD: Mr. Fazio, I apologize, I  
20           was thinking maybe my question I want to direct  
21           you, but I feel like you are drawing all of the

1 questions here, I don't want to make it seem that  
2 way. I did have a question. I believe you stated  
3 you hand 121 different carriers that you were  
4 going to apply this to.

5 MR. FAZIO: No, I'm sorry the part of  
6 the regulation it is called Part 121.

7 MR. GRIZARD: Oh, Part 121.

8 MR. FAZIO: It is any airline operation  
9 nine seats and above.

10 MR. GRIZARD: Okay. But I'm guessing  
11 that there is going to be -- quite a bit of  
12 difference between airlines if you are going to be  
13 applying this to or you got the smaller regionals  
14 and, of course, the larger internationals and a  
15 variety of different kinds of equipment and  
16 operating procedures. And I am just wondering if  
17 you have given any thought to how you plan to  
18 apply some kind of scale and flexibility of the  
19 SMS to that universe that you are responsible,  
20 what kind of approach are you going to adopt?

21 MR. FAZIO: Yes, that is -- what I

1 failed to mentioned is that one of the reasons why  
2 we think we can meet the 90-day deadline is that  
3 we had our own advisory committee already in place  
4 made up of airlines, manufacturers, the whole  
5 aviation community and fair statement.

6 And one of the first recommendations  
7 they made to us is whatever you impose on us has  
8 to be scalable. So clearly, we do believe we are  
9 going to get there simply because it is going to  
10 be a performance-based regulation, so obviously,  
11 if you at Boeing, you are not going to have the  
12 same SMS as a mom-and-pop manufacturer of a bolt,  
13 for example, which happens in our industry. And,  
14 so, we recognize that.

15 Again, while the rule will be  
16 performance based, it is all in interpretation.  
17 So, I know I just recently heard from the  
18 helicopter industry, they have already put out  
19 guidance for their members. And they have a road  
20 map, if you will, for applying SMS for their  
21 community. And I love to share this story. They

1 are so adamant about this, they had a one-person,  
2 one-aircraft operation. He has an SMS.

3 As pilots, you have a checklist. That  
4 is an SMS in a way isn't it. If you are talking  
5 to folks who came from the military, the test  
6 pilot, they give you one page. You have to fill  
7 it out, if you get a certain score, you are not  
8 flying that day, because they ask a question about  
9 fatigue or you last flight, whatever it might be.  
10 That is a form of SMS. And that is scalable. So,  
11 I think that is what we have to do and we are very  
12 mindful of that.

13 MR. FLANIGON: That was good. I  
14 appreciate that Bill is thinking about the task at  
15 hand, because we have got -- just at the table  
16 here, we have the largest transit operation in the  
17 country, and in terms of rail transit a very small  
18 historic operation of streetcars, so whatever we  
19 come up with has to fit that broad spectrum.

20 I think I have one over here, Mr.  
21 Dougherty.

1 MR. DOUGHERTY: Thank you. Again,  
2 Mr. Fazio, I guess --

3 MR. FAZIO: We are all regulators.

4 MR. DOUGHERTY: Well, I guess that is  
5 it. I believe you said your primary function of  
6 the FAA is regulatory function; correct?

7 MR. FAZIO: I'm currently accident  
8 investigation.

9 MR. DOUGHERTY: And you have, what,  
10 4,800 inspectors or something?

11 MR. FAZIO: The safety organization has  
12 roughly 7,800 inspectors.

13 MR. DOUGHERTY: And the regulated  
14 community, are they all private carriers versus  
15 tax based or tax supported?

16 MR. FAZIO: They are all private  
17 entities, yes. We do not regulate public  
18 (inaudible).

19 MR. DOUGHERTY: So I guess looking at  
20 that, that's some of the differences. And are all  
21 of the inspections conducted by FAA inspectors

1           versus others?

2                       MR. FAZIO:   Well, that is a good  
3           question.  No.  We have primary (inaudible), but  
4           we do a lot of delegations.  So, for example, if  
5           you are a pilot and you need a medical exam.  You  
6           don't go to FAA doctor.  You can go to a doctor  
7           who is certified by the FAA -- designated by the  
8           FAA to perform that.

9                       If you are a pilot and you need a check,  
10          you can get checked by someone who is working on  
11          behalf of FAA.  You can do in the manufacturing  
12          center.  There are designated engineering  
13          representatives who, when they are getting  
14          approvals for certain production or engineering  
15          approvals are doing that on behalf of the FAA.

16                      So, we do a lot of that.  Remember I  
17          talked about the changing aviation industry.  We  
18          are going to more of that, because we are not  
19          growing.  If you follow what is happening in  
20          Washington, the government is not going to grow.  
21          The industry grows, we have got to adapt to meet

1           that.   So part of that is designation.

2                   MR. DOUGHERTY:   Thank you.

3                   MR. FLANIGON:   And I think Mr. Clark is  
4           next.

5                   MR. CLARK:   Thanks, Mike.   I guess this  
6           kind of a question and an observation for the  
7           panel itself.   Kind of picking up on something  
8           that Jim mentioned which occurred to me also is  
9           that in this industry we are in a very different  
10          position.   As a regulator in California, I  
11          regulate public entities, tax-based entities  
12          not -- well, on the rail side of the operation I  
13          do.

14                   And so that is very different, because  
15          it is very different to try to assess a penalty to  
16          take an enforcement action against another  
17          governmental agency than it is a private company.  
18          But it occurs to me from listening to what you-all  
19          have said, I have been an enforcement guy for  
20          forever, and I have always struggled with the  
21          enforcement, the collaboration, the

1 performance-based rule making, the enforcement,  
2 and the whole 9 yards and how it is that you do  
3 the enforcement.

4 But it occurs to me after listening to  
5 you folks and some reading that I have been doing  
6 that if you have collaborative rules development,  
7 you have performance-based rate making standards,  
8 and then as one of you said, I think I was you  
9 Mr. Fazio said, clearly written interpretive  
10 bulletins and materials, and then you have  
11 corrective action plans, that you find yourself in  
12 an excellent place to take an enforcement action  
13 if you need to take one. And the possibility that  
14 you would need to take an enforcement action I  
15 think is diminished considerably by having these  
16 other elements of a system in place.

17 I just wondered if you might comment on  
18 that?

19 MR. FAZIO: I think you have done an  
20 excellent summary of what we have been trying to  
21 do. As I said, my belief is 90 to 95 percent of

1           our community wants to do the right thing.  And,  
2           so, getting there, you know, if it is a lack of  
3           information or a mistake of sorts, you have in  
4           place mechanisms to do that.  So, we do a lot.

5                        When I was in rule making, for example,  
6           we do a lot of rule making by advisory, bring in  
7           the agents.  They can tell us.  You know, people  
8           wonder, well, isn't that a conflict of interest,  
9           industry is coming in?  No.  We are using your  
10          expertise.  We ultimately have the say.

11                       So, yes, I agree with you.  But I don't  
12          know why as a public entity you couldn't have the  
13          authority to point to situation and say, no, you  
14          are not doing.  The state is different, obviously,  
15          but --

16                       MR. CLARK:  I'm not saying we don't,  
17          because we do actually stop operations from time  
18          to time.  But assessing a monetary penalty is a  
19          whole different thing.  But shutting them down  
20          until they fix something, I mean, I have certainly  
21          done that.

1 MR. FLANIGON: Jackie I think is next.

2 MS. JETER: My question is when we  
3 started the FTA DOT drug testing policy, with that  
4 we also put -- and I say "we," but you -- put in a  
5 caveat that after a period of time there will be  
6 an audit, an audit of the agencies that are  
7 participating to find out whether or not they are  
8 following the guidelines that have been put in  
9 place and how they are following those guidelines.

10 So my question becomes, do you support  
11 or what is your thinking on that type of audit  
12 being put into place with regulations for transit  
13 agencies around the country to find out whether or  
14 not they are complying with federal mandated  
15 guidelines or regulations?

16 MR. FAZIO: Is that for us.

17 MS. JETER: What do you think about it?

18 MR. FAZIO: Well, unless FTA were to  
19 give regulatory authority, which I doubt  
20 (inaudible) there are other opportunities out  
21 there for you. You have trade associations.

1           There are a number of ways that you can do it  
2           where you can have third parties come in and audit  
3           you.

4                       I think maybe as a community you may  
5           want to help establish standards. I'm sure FTA  
6           has regulatory standards with guidance materials.  
7           I have seen some (inaudible) trade association.  
8           Have a third party come in.

9                       We -- I'm involved in an advisory  
10          committee on the future of aviation, and we had a  
11          interested presentation from the Flight Safety  
12          Foundation 2 weeks ago, where he was making that  
13          very point, that we are getting to the point in  
14          aviation where it becomes so safe -- my friends in  
15          NSTB might not want to hear this, but is getting  
16          harder and harder for us to issue regulations,  
17          because if you are not aware, we always have to  
18          deal with cost ratio with any regulation we  
19          impose. We cannot get the benefits because we are  
20          so safe now, unless there is an accident, an  
21          immediate accident that we are addressing, it is

1 very hard for us to justify that.

2 So his point was, well, why don't you  
3 have the industry police itself. It is a very  
4 interesting concept. I'm not sure we will go for  
5 it, but -- and the idea falls around best  
6 practices. Why should -- I spoke of those  
7 programs. Why should an airline that is doing all  
8 those right things then compete head to head with  
9 a company that doesn't do that? Those programs  
10 cost a lot of money. But they are not regulatory.  
11 We are not mandating these.

12 And, so, the industry itself could say,  
13 you know, this airline or this train authority  
14 follows the Good Housekeeping seal, if you will,  
15 and then the public can decide. You have an  
16 informed public there.

17 We do it -- the International Air  
18 Transport Association does that for their members.  
19 You cannot join the IATA -- you may have seen that  
20 on your ticket -- unless you passed one of their  
21 audits. And they bring these safety audits,

1 business audits, that sort of thing. And, so, you  
2 cannot be a member of their association. So there  
3 is another premise. I don't know if it is your  
4 model or not okay.

5 MR. FLANIGON: I think what we are going  
6 to do is take one, two, three, four, five more  
7 questions before taking a break. And we will  
8 start with the duty medic.

9 MR. BATES: This question is for -- it  
10 can be for all three on the panel. And, Mr.  
11 Sunwalt, watching your presentation, I was very  
12 fascinated by it. In your study, who is the chief  
13 safety officer in the company, is it middle  
14 management or is it CEO.

15 MR. SUNWALT: In my opinion it needs to  
16 be the very top. Now, that is debatable. Where  
17 is the top? Is it the general manager, is it the  
18 board of directors? Where is it? And I literally  
19 mean it has to start at the top of the  
20 organization. In my opinion that is the board of  
21 directors getting the right information and

1 providing some level of oversight into those  
2 issues. It has to be the CEO.

3 Safety is not just -- as we said in our  
4 board meetings, the chief safety officer is there  
5 not to be the head of safety, but to be one who  
6 supports the head of the organization to make sure  
7 that they are looking at those right kinds of  
8 things. Safety is not a middle management  
9 function.

10 A chief safety officer is there to  
11 collect the data, and then make sure that those  
12 higher up in the organization are fully informed  
13 as to what they need to be informed to.

14 MR. WATT: That is the problem I kind of  
15 have my reservations with, because the board of  
16 directors, are they a day-to-day operation type --  
17 are they a day-to-day operation type function or  
18 is the general manager or the CEO day to day to  
19 keep his eye on the process on a daily basis?

20 MR. SUNWALT: Well, I think the general  
21 manager is certainly there to look at the

1 day-to-day operations but if you look at any books  
2 on -- I was out looking at some colleges with my  
3 daughter, and she wanted to go to Harvard, and I  
4 hope she can get in there, so we were in Harvard  
5 bookstore, and I picked up a book on governance by  
6 boards of directors.

7 And one of the functions, governance  
8 functions of the board of directors is to provide  
9 oversight. And it's sort of odd, we usually have  
10 a board -- a committee to look over finances, a  
11 committee to look over property and real estate,  
12 but is there a distinction committee to look  
13 specifically at safety?

14 And in my opinion that is part of your  
15 fiduciary responsibility as a board of directors,  
16 is to manage safety just as you manage the other  
17 vital business functions in that organization.  
18 And if you are not, then I can assure you, you are  
19 not going to have a good safety culture in that  
20 organization.

21 MR. BATES: I have one more point also.

1 I keep hearing about the third party, and someone  
2 coming out and looking at -- what is the  
3 employee's role in the safety plan, because you  
4 already have experts already on the property that  
5 can tell you what is wrong or what needs to be  
6 fixed or their concerns?

7 Do we have a system or a process in  
8 place that it could -- it could come from employee  
9 up back up to board of directors or to the general  
10 manager, because we have a bunch of experts that  
11 work there every day, they complete those tasks  
12 every day, and 99.9 percent of them does its  
13 safely every day. But also there are times when  
14 something is unsafe. How do they report that to  
15 someone to change the culture or change the  
16 situation itself? What do you find about that?

17 MR. SUNWALT: Well, I do believe, and  
18 I'm going to go back to something that I have said  
19 earlier today, and that is safety does have to  
20 start at the top and it does have to permeate  
21 throughout the entire organization.

1                   With that, I will go back and look at  
2                   the couple of the definitions that I proposed to  
3                   safety culture, and that is that it really does  
4                   have to be an overriding priority with everybody  
5                   that works in the organization, and it has to be a  
6                   set of core values and behaviors resulting from a  
7                   commitment, collective commitment of our leaders  
8                   and individuals to emphasize safety over competing  
9                   goals.

10                   And I realize safety is not just the  
11                   chief safety officer and it is not just the chief  
12                   executive officer and board of directors. It has  
13                   to be every person touching that organization,  
14                   including contractors. It has to be an override  
15                   priority. I know that sounds very esoteric and  
16                   academic, but that is what we are striving for.

17                   I hope that gives you some clarity, from  
18                   my opinion at least.

19                   MR. BATES:    Okay.    Thank you.

20                   MR. FLANIGON:  Let's work our way around  
21                   the table Jackie.   Rick.

1                   MR. INCLIMA: First of all, I wanted to  
2                   thank all three panel members for excellent  
3                   presentations and preparation. I really  
4                   appreciate it. It was very helpful. And I think  
5                   you have kind of captured the challenge that we  
6                   face.

7                   You know, James Reason has been around  
8                   for a long time, the whole concept of safety  
9                   culture, particularly changing the safety culture  
10                  from where we are to where we are going has been  
11                  an illusive goal, both on the transit and the  
12                  railroad side; you know, the whole items of  
13                  non-punitive reporting and analysis, cause  
14                  analysis, and improvement, et cetera.

15                  But the reality I think and the  
16                  challenge we face is discipline is easier to  
17                  manage than safety culture and change, you know.  
18                  And I don't know if anyone has any advice for the  
19                  group about how do we transition from the  
20                  discipline way, you know, blame it on the pin  
21                  puller guy, if I can blame you, then as -- you

1 know, whenever I sit, I am good.

2 I mean, how do we address that? How do  
3 we transition from where we are to where we would  
4 like to go? I mean, what incentives, you know,  
5 whether they are negative or positive incentives,  
6 can we introduce into the mix to move where we all  
7 like to go?

8 I don't know if anybody can answer that.

9 MR. CARNES: I will just go over this  
10 for observations. Things that I have seen in the  
11 work is find someone, an appropriate senior level  
12 in the organization who is a thinking person who  
13 sees the need to change. Equip them with  
14 education, training and tools to enable them to  
15 perform what I call controlled organizational  
16 experience to demonstrate that these practices do  
17 have positive benefits of safety and performance.

18 Shine the light on that individual  
19 leader or (inaudible) and make him the hero or  
20 her. Get the internal competitiveness going. And  
21 I have extended that to the organization.

1                   Now, the way that I work with the  
2           Department of Energy is all of my work is for the  
3           people who volunteer. Let's face it, it is big  
4           dollars, okay. If you are going to be a  
5           contractor for the Department of Energy, DOD,  
6           whatever, it is big dollars. You want to  
7           demonstrate that you are doing the job well and  
8           you are doing the job safely because you want it  
9           to work.

10                   There are people who out there who  
11           understand the bottom line. Okay. I just you  
12           know I look at the bell curve idea, there are  
13           certain early adopters who are working these and  
14           when you see them doing this, see them shining the  
15           light (inaudible), meanwhile we go for what my  
16           colleagues do here, and when you have an event,  
17           which unfortunately happens, you use these  
18           principles in doing your invested interest to show  
19           how the very things that are failing are the  
20           things that the successful people are using to  
21           succeed.

1           So there is no simple answer but mine is  
2           run by early adoptive people who want to make  
3           things happen, do it that way, plus you always  
4           have the regulation and the inspection to work the  
5           other way.

6           MR. FLANIGON: I think the penultimate  
7           question comes from Tom.

8           MR. PRENDERGAST: It is really  
9           expounding on the dialogue Tony and Jackie had,  
10          and you asked the question about self-policing. I  
11          have had the benefit of working both in a the  
12          regulatory and non-regulatory environment, first  
13          in -- actually most of my time has been in rail  
14          transit, but I did have 5 years in FRA  
15          environment.

16          And in 1994 we had two real bad  
17          accidents that forced the whole actually outgrowth  
18          of RSAC. And there was a recognition on the part  
19          of the senior executives and the safety officials  
20          that in order to get to the next level of safety  
21          and get to the point where we make sure that we

1           were putting in processes, procedures and  
2           regulations that were worthwhile. It had to come  
3           from the side, recognizing that the FRA had a role  
4           to play.

5                         And at the very basic level, there was a  
6           terminology used that the pain we give ourselves  
7           may be followed by some of the pain that others  
8           will give us, because we know more about it. Much  
9           like, I think you raised, Earl, the point of some  
10          of the best experts we have in the system are the  
11          people who live with it every day. I know an  
12          awful lot about track maintenance, but I have  
13          never been a track maintenance employee.

14                        So those people really have a very good  
15          handle on what needs to be done. We need to give  
16          them the resources, the policies and the support.

17                        I also worked at the FTA years ago under  
18          UMPTA (phonetic) and it was no different then than  
19          it is now, in the sense that there was a  
20          reluctance to get into the regulatory environment.

21                        In the standards development on the rail

1 transit side, we have consciously tried to adopt  
2 that philosophy, which is self-policing, because  
3 if we have a standard that everybody asks for  
4 waiver or some level of exception to, we don't  
5 have anything.

6 So I think this committee -- I mean,  
7 that is one charge I think we ought to take to  
8 ourselves, that we will be only as good as our  
9 ability to enforce on ourselves that which we  
10 prescribe for ourselves in terms of a standard.  
11 It is the old adage, you have the walk the talk.

12 MR. FLANIGON: And the ultimate  
13 question, Mr. Cheng.

14 MR. CHENG: Well, we talk about safety  
15 management system, we talk about risk management.  
16 Of course, you know as to risk management  
17 basically we use the data accident/incident  
18 information.

19 I would like to know practicing the FAA  
20 and the Energy Department? How do you have this  
21 -- how do you use that and how do you collect

1 information?

2 Also, when we talk about -- when  
3 Mr. Sunwalt talk about reporting culture, I would  
4 like to know if your department has that kind of  
5 system to allow employees in the industry to make  
6 reports, because as I see, it is kind of -- on the  
7 highway side, it is good.

8 It's a good system because, you know,  
9 they have NHTSA, National Highway Transportation  
10 Safety Administration. They have a system, you  
11 know -- and public can enter -- if they have  
12 problem with the vehicle or anything, they can  
13 enter that and then looks like they have  
14 discipline personnel to analyze that on a daily  
15 basis, so that is how -- you know, the Toyota gas  
16 peddles and a few years ago Firestone tires, that  
17 is a result.

18 So, I would like to know the  
19 department's practice in terms of that?

20 MR. FAZIO: Well, we use data all the  
21 time. I mentioned a number of examples up there

1 where obviously it is confidential submitted  
2 information. I would argue probably we have too  
3 much data, in that as a government agency, you  
4 know, you will have a requirement that was imposed  
5 20, 30 years ago that never goes away.

6 We have -- you know every time something  
7 happens, you are correct, we have a requirement.  
8 So, one of the things I want to do in my current  
9 capacity is start looking at all of the required  
10 data sources to see if they are still valid,  
11 because I think as a government agency, we  
12 (inaudible) administrative a lot. You are not  
13 aviation people, but there are some (inaudible)  
14 where they say, wait a minute, no more reporting.

15 Having said that, we are still  
16 required -- we are going to require reports. The  
17 only question is what kind.

18 And so, to get to your point, yeah, we  
19 look at it all of the time. I mean, Robert spoke  
20 about the engines. I mean, we have engine  
21 reliability information, our engineers they deal

1 with that all the time. That is how they deal  
2 with risk analysis. So, we have got the  
3 information. I would argue we might have a little  
4 too much. And part of what we are trying to do  
5 with the (inaudible) program, the idea is taking  
6 all of this information and fusing it together, is  
7 it giving us what we need? Because if we can  
8 tweak some of the data sources, we might be able  
9 to get better information. So I don't know if  
10 that is -- but we have a lot of data sources.

11 MR. CARNES: Just quickly. In the  
12 Department of Energy and others we have what I  
13 call -- we advocate a nested series of reporting  
14 systems and subsystems; in other words, we have  
15 certain things there are both regulatory and  
16 required reporting. All right. We all have those  
17 threshold.

18 Some of those are in terms of  
19 engineering systems, (inaudible), environment,  
20 those kinds of things, but we also have certain  
21 management systems that we want people to

1 cooperate and report on. And within that we have  
2 a management discretion area, that we actually get  
3 people to report to us on things that they have  
4 identified as being concerns to them that are not  
5 defined in the regulatory threshold, which we  
6 really want to encourage, because they, say, huh,  
7 we have concern about this, and so we are telling  
8 you we have a concern about it. And we consider  
9 that to be a very positive behavior.

10 Then going down, so we look at this at  
11 each department in an organization, do we have  
12 maintenance, engineering, et cetera, right. We  
13 expect them to have reporting systems and metrics  
14 that are relevant to their particular discipline,  
15 like maintenance, so we have predicted  
16 maintenance, we have observance maintenance,  
17 surveillances, on time surveillances, all that  
18 kind of stuff so that the maintenance department  
19 may have a few hundred metrics, and it is just  
20 maintenance kind of stuff.

21 Then, I should say we encourage, support

1 innovation as to developing those very small  
2 reporting evidence. So, at one very, very large  
3 facility they have been a lot of the work in the  
4 past couple of years of building upon work of Jim  
5 Reason and in looking at what we call error being  
6 something happened or did not -- something  
7 happened that we didn't expect to happen or  
8 something did not happen that we expected to  
9 happen, we will call that an error. Okay. It  
10 didn't cause a consequence, but it was, again,  
11 that unexpected and reported at that level. As  
12 Jim Reason did and John Wreathall -- they did work  
13 on, I think the (inaudible) Singapore error,  
14 British error on a system called Mesh several  
15 years ago.

16 And I thought it was real deep because  
17 it gets into, you go and take a select group of  
18 people, and they come out -- and anyway, they tell  
19 you, well, gee, today I didn't really have  
20 training that I needed on this kind of system or I  
21 didn't have the tools or the supplies available.

1           So, it is that what was unexpected. That is the  
2           level of reporting we are trying to get to, so  
3           that helps. It is a necessary level we are trying  
4           to go down as fine as we can in discrimination of  
5           what was going on.

6                       MR. FLANIGON: All right. Well, I want  
7           to thank our esteemed team panel for the time that  
8           they put in today. And we will take a 15-minute  
9           break, which would put us back here at 4:15. And  
10          before the panel may leave the building, I want  
11          them to know that they are invited to our  
12          reception at 5:00 o'clock in Room Number 5, one  
13          floor up, 5:00 o'clock Room Number 5. I wonder if  
14          that is a lucky number.

15                       (Laughter.)

16                       MR. FLANIGON: I know Earl has to leave  
17          town, but the other two if you want to stick  
18          around, you are more than welcome. If you want to  
19          circle back at 5:00 o'clock in Room Number 5, one  
20          floor up.

21                       That is also 5:00 o'clock for any

1 members of public interest observers, you are all  
2 invited to meet and mingle with the TRACS  
3 committee.

4 So, we will reconvene here in 15  
5 minutes. About one round of applause for the  
6 speakers.

7 (Applause.)

8 (The proceedings recessed at 4:02 p.m.,  
9 until 4:21p.m.)

10 MR. FLANIGON: I want you to know that I  
11 have -- according to the agenda, I have a discuss  
12 current 659 system approach and can SMS principles  
13 enhance it. And I put together this great  
14 300-slide PowerPoint that I think you would really  
15 like.

16 (Laughter)

17 MR. FLANIGON: How many people want to  
18 see more PowerPoints this afternoon? Only one.  
19 Okay. No consensus. So we are going to make a  
20 shift in the agenda.

21 And actually, what I had put together

1 would probably be useful at the point where we  
2 form up a work group to look at the first task,  
3 the model. So all is not lost. We will make use  
4 of that information.

5 But what I thought would be a productive  
6 use of the next 40 minutes or so was to engage  
7 you, the committee, on helping us articulate the  
8 kind of pick up task two that we got this morning.  
9 We had spent a lot of time thinking about how we  
10 might format and articulate the first goal. But  
11 the second goal we are kind of picking up on the  
12 fly, and so I thought we could have a conversation  
13 about how to articulate that to help guide the  
14 work that will be get done.

15 And before doing that, let me just ask  
16 one more time Ms. Esther White, on my right-hand  
17 side in the back of the room is available to take  
18 anybody's name, members of the public who would  
19 like to make a public statement to the committee  
20 for the committee to hear tomorrow morning at  
21 9:00, whatever the time is, 9:45, I think. So if

1           you would please see her if you would like to make  
2           a statement.

3                         And otherwise we will kind of move in.  
4           So, this is more of a discussion -- this is  
5           audience or committee participation, not Mike  
6           talking at the committee. But let me -- let me  
7           start with what I think I heard. And then we can  
8           kind of work our way around and see how we might  
9           flush that out.

10                        So what I heard was a valuable task for  
11           this TRACS group would be to examine, in the kind  
12           of same format we are talking about, the safety  
13           planning model, examine the best state oversight  
14           agency, organization, financial funding source,  
15           technical capacity, some of those kind of -- what  
16           are the characteristics or sort of best practices,  
17           I guess, will be as a state oversight agency?  
18           What should a state oversight agency look like to  
19           do the best possible job? That's kind of what I  
20           heard as a goal.

21                        But we have got 20-some odd other sets

1 of ears that may have heard it a little different  
2 or picked up a nuance that I didn't pick up. Let  
3 me just throw that out to the committee. Any  
4 comments or thoughts? And we have a couple of  
5 state oversight agencies, starting with my home  
6 state, being a California native, Rich Clark.

7 MR. CLARK: What I heard Peter say was  
8 what defines a good state partner in terms of  
9 capabilities, expertise, relationships with the  
10 federal government and the transit agencies.  
11 Those were the notes that I wrote down. I just  
12 offer them.

13 MR. FLANIGON: And we have our folks  
14 taking careful notes of this discussion. And what  
15 we are going to do is try to translate that into  
16 this same format that we passed out to you as  
17 tasking number two.

18 MR. PRENDERGAST: Similar to what  
19 Richard said, but I thought he used the word  
20 "ideal," and so when I heard him use that word, I  
21 thought rather than look at trying to characterize

1           who would be the best, look at the best practices  
2           of all the state agencies and cherry pick those  
3           that would help to identify what would be the  
4           ideal state safety partner.

5                   MR. FLANIGON:   Mr. Dougherty.

6                   MR. DOUGHERTY:   I guess, you know, just  
7           exactly what I wrote down from what Mr. Rogoff  
8           said was continuation of state partners and safety  
9           oversight, i.e., SSO, what defines a quality  
10          safety organization, what identifies a good state  
11          safety organization/partner, need for -- and the  
12          need for consistency.  I think that is pretty  
13          close.

14                   MR. FLANIGON:   Are there any other?  
15          Rich?  Pam.

16                   MS. McCOMBE:   This is a slightly  
17          different question, but are we limited to just  
18          evaluating the state safety oversight, or can we  
19          also evaluate at the agency level what they need?  
20          In other words, perhaps they need to implement an  
21          SMS and dedicate funding for them as well.

1                   MR. FLANIGON: I think that fits, in my  
2                   mind, more into my first task, and I think  
3                   exactly, it involves the agency, because with the  
4                   agency is where the rubber hits the road, that is  
5                   where it has got to happen. No amount of  
6                   regulatory oversight is going to make the transit  
7                   agency safe through -- it has to be the internal  
8                   processes and how they. That would be my take on  
9                   it.

10                   Amy.

11                   MS. KOVALAN: Thanks. Along the same  
12                   lines, when I heard the administrator talk about  
13                   defining the ideal state safety partner, I know  
14                   that in markup some of this changed, but as the  
15                   legislation moves forward, some of the flexibility  
16                   of having different laboratory models -- so, you  
17                   may have a large state with a lot of agencies, one  
18                   model SSO, but it would be nice in the idea of  
19                   talking about those partnerships with the state  
20                   not to rule out a model similar to what we just  
21                   heard about at the FAA, if states opted to do

1           that.

2                         States where maybe there is only one  
3           agency in the whole state being regulated, for  
4           example, and it might make more sense to deal  
5           directly with the region of FTA or something like  
6           that.

7                         So, I think looking at that question and  
8           what the options are and keeping that open, it may  
9           not be one size fits all.

10                        MR. FLANIGON: That is a really good  
11           thought. And it parallels, I think, one of the  
12           points we were trying to lay out on the first  
13           task, which was the planning model that would be  
14           in place at the agency. And, you know, the point  
15           I made earlier that we have the largest transit  
16           agency in the United States and one of the smaller  
17           operations at the same table, and somehow whatever  
18           we do is scalable and appropriate.

19                        The same is true of state oversight,  
20           because we have the state that oversees one of the  
21           smaller transit operators, and then we have the

1 state that oversees one of the largest the largest  
2 in the country if not in the world. Is  
3 New York -- where is it on the world map?

4 MR. PRENDERGAST: It depends on what you  
5 measure.

6 MR. FRANKLIN: But somewhere up there,  
7 if not the top, near the top. So I think the  
8 ideal state oversight agency concept has to be  
9 scalable based on what are they overseeing. And  
10 that is something I have given a lot of thought to  
11 as we have, you know, worked on legislative models  
12 that would, on the one hand give states the  
13 opportunity to opt out, and another model which is  
14 (inaudible) no states opt out, therefore, it has  
15 to be a state oversight agency in the state that  
16 may have little in the way of rail transit and  
17 operations.

18 So, what is the right mix of resources?  
19 You know, we don't expect -- we wouldn't expect  
20 the State of Wisconsin to stand up a 10-person  
21 oversight agency for a 2-mile streetcar line. So

1           how to put the right mix of federal involvement, I  
2           guess, or support and what is the right mold for  
3           contract support.

4                       Several people have asked me that today,  
5           where should contracting fall into this whole  
6           thing. Currently there is a lot of contracting of  
7           audits at both the federal and at the state level.  
8           So, what is the right mix.

9                       I'm sorry Mr. Pearson.

10                      MR. PEARSON: I have one comment to make  
11           on state oversight. First of all, the sat  
12           oversight agency itself has to have their plan  
13           together. That is one of the main fallacies that  
14           we found now. The state oversight in Tennessee,  
15           it basically only deals with only two small  
16           agencies. You know, they deal with MATA and they  
17           deal with CARTA, which is the incline railroad.

18                      One of the things that we found most  
19           helpful is that they have a clear understanding  
20           through the training that they have gone through.  
21           They don't have the day-to-day expertise, but they

1 have ventured out to take as many training classes  
2 as possible offered by FTA so they can get  
3 familiar with what they are monitoring. You have  
4 the numerous individuals that monitor systems, but  
5 they have no clue of the day-to-day actions.

6 The success of our SSO has been that  
7 when they did not understand, they at least came  
8 by and allowed you to carry them out and actually  
9 let them work with you, where they could get some  
10 clarity and understanding of what they were to  
11 monitor.

12 Therefore, that brought about the  
13 cohesive work relationship where when we did not  
14 have dollars in the agency for additional  
15 training, they would take dollars out of the  
16 training pool at the state agency and supply the  
17 two agencies with necessary training to bring our  
18 employees up to a standard that would we would  
19 consider acceptable.

20 So, if that is not -- if you don't know,  
21 you can't regulate. And if you don't have a good

1 work relationship with the agencies that you are  
2 dealing with -- and that comes through trust and  
3 honesty.

4 Now, there is no comradery -- I mean,  
5 there is no collusion there -- let me use the  
6 right term there. If we do wrong, we are written  
7 up. But we work together so well until we don't  
8 want to do wrong, because our ultimate goal is to  
9 have a safe operation and follow the rules and  
10 regulations in our SSPP and SEPP. And they just  
11 make sure that they hold us to that.

12 But if they see that there are some  
13 fallacies, they are willing to work along with us.  
14 I think that we need to bring that out. Now,  
15 New York and some of the bigger agencies it may  
16 not be user friendly, but I think the premise is,  
17 and we involve every entity, the labor, even  
18 public relation, HR, everybody is involved in our  
19 safety committee to the point because without  
20 those people playing a valid role, we still get  
21 junk in, junk out. And we found that we had to

1 team up to get total consistency across the board  
2 and believing.

3 Now, the safety person is responsibility  
4 as well as myself and the general manager, but --  
5 and they brought up something -- I'm going to take  
6 the time to say this now. Our SSO comes to our  
7 board once a quarter and reports to the full board  
8 of directors of our agency.

9 Because I don't know about anybody else  
10 here -- I have talked to one or two people -- I  
11 don't know any board that deals in day-to-day  
12 operations. Most boards are political appointees  
13 and the only time they are going to talk to you  
14 about operations when you have disaster or  
15 something going on. And that normally means you  
16 are going to fire the general manager and get  
17 somebody else in.

18 But we tried to be proactive to the  
19 point that at least once a quarter, safety is put  
20 on that agenda and the SSO themselves come down  
21 and talk to the board about our safety functions

1 and what we are doing, what we did wrong, what we  
2 did to improve what was wrong, and what they did  
3 to assist us in doing so. And I think that is  
4 very valued.

5 MR. FLANIGON: Thank you. Let's move  
6 along the table here. Jim.

7 MR. DOUGHERTY: Thank you. I think if  
8 you ask the right mix, the right role, and -- I  
9 guess the concern that I think probably the  
10 regulating agencies would have is where the FAA  
11 has their own inspectors. If the states are going  
12 to do that, that is fine. There is a concern,  
13 though, when a state is using contractors that are  
14 for profit that are doing an audit, and follow up  
15 on the audit, and I think that is something that,  
16 you know, that is discussed in the transit area.

17 So, I think if that is to be the case,  
18 that whoever the contractor is that may be  
19 involved in the audit, that they wouldn't have the  
20 role of following up on the audit, because, you  
21 know, whether or not it is perceived or real, is

1 the more you find, the more work you have.

2 And, you know, if they can't be state  
3 employees such as the case in the CPUC, you know,  
4 where they are all state employees and contractors  
5 have to be used, I think we need to kind of put in  
6 some kind of a -- or look at the option of a  
7 safeguard, I guess, if you will, to insure that it  
8 is not, you know, the more I find, the more work I  
9 have for a longer period of time or for perpetual  
10 work.

11 That would be certainly a concern that I  
12 have heard, that I share as we look at the  
13 regulation. There is a difference where the FTA  
14 is, you know, a lot involved in grants and  
15 development versus the FTA -- I'm sorry -- the  
16 FTA, yeah -- grants and development, FAA's  
17 regulatory if there can't be a regulatory arm of  
18 the FTA, which may be a good way to go and hire, I  
19 don't know, 100 inspectors or whatever like in the  
20 surface transaction inspectors on the DHS side  
21 also. But something along that line is, I think,

1 something that this committee would need to look  
2 at.

3 And then how do you penalize or how do  
4 you compel if there is not a accomplishment? Does  
5 it make sense to fine one governmental body to  
6 fine another governmental body, when everybody is  
7 struggling for public tax dollars already anyway.

8 MR. FLANIGON: Thank keep going down the  
9 table. Georgetta.

10 MS. GREGORY: First of all, I think it  
11 would be important for this committee to have some  
12 discussion as to what the group collectively  
13 thinks the state oversight agency should look  
14 like. And to that end, would we be looking to  
15 have, as currently exists, an agency that would  
16 oversee the system safety program plan or a  
17 regulatory agency or a mix of both?

18 I would propose that, again, the  
19 geographics, the number of systems, the track  
20 miles, the number of employees and all of that has  
21 to play a role into that.

1                   If you are going to have inspectors,  
2                   those have to have a specific skill set that you  
3                   don't just hire off the street. Generally you are  
4                   going to have to either draw from the transit  
5                   agencies or from one of the railroads to get that  
6                   specific skill set.

7                   Then you need the engineering aspect,  
8                   the professional engineering aspect. And you need  
9                   a nice blend analysts to go along with that as  
10                  well.

11                  But I think before we can make a  
12                  recommendation on that, we need to have some  
13                  discussions on what we think you should have.  
14                  Should you just be a paper chaser in the form of  
15                  record audits and system safety, or do we want to  
16                  recommend actual on the ground inspectors? The  
17                  training is huge.

18                  I have to echo Jim's comments about the  
19                  use of consultants for these activities, being  
20                  brand new to this side of the dark side have been  
21                  accused, I have had my first experiences with the

1 consultants. And I have to parrot exactly what  
2 Jim said. The audit of MARTA is coming up later  
3 this month, and I have some trepidation that the  
4 findings will be long-term work for the  
5 consultants and not necessarily safety critical.

6 That is what I'm looking for from a good  
7 state safety oversight. I want the safety  
8 critical items. I don't want a laundry list of  
9 little nitpicking. You didn't indent your thing  
10 here or you didn't define state or some silliness.  
11 I want safety critical information that I can put  
12 to use immediately to improve the system.

13 So anyway, I basically have the same  
14 notes from the administrator's comments. You  
15 know, he wants a definition and a model of what a  
16 good state safety oversight agency would look  
17 like, so I think we really need to have some  
18 discussion on what we think it should look like.

19 MR. FLANIGON: Henry.

20 MR. HARTBERG: Wow, you just made me mad  
21 all over again, Georgetta, because we had a group

1           come in and do the type of audit you are talking  
2           about, and I guess it was safety critical in some  
3           places, in our SSPP, our technical services group  
4           was called a group and in a few other places the  
5           was called a division.

6                           (Laughter.)

7                   MR. HARTBERG: I sort of wondered -- you  
8           know, I tried to imagine the accident where the  
9           NTSB would say the cause of this accident and so  
10          forth.

11                   What I wanted to talk about a little bit  
12          is the scalability issue. If the FTA is going --  
13          if the opt out portion of this bill makes it  
14          through, it is out -- it is gone? Never mind.

15                           (Laughter.)

16                   MR. HARTBERG: I was going to stay if  
17          the FTA is going to have to do some of that  
18          oversight anyway, they should -- you know, there  
19          is expertise that you would need so. If at that  
20          point -- one way or the other with the smaller  
21          groups and really for, you know, even the states

1           that are large but don't have a lot of properties,  
2           there is no way to make the states willing to --  
3           as is willing to devote 10 people so they have an  
4           inspector and they have an engineer, and so forth  
5           and so on the staff for, say, two properties like  
6           we have presently in Texas.

7                        So one of the things that would be good,  
8           I think, is that if the FTA somehow made available  
9           certain types of expertise so that the states who  
10          can't justify a California PUC type of  
11          arrangement, still have access to quality  
12          information and quality assistance when they need  
13          it. That way you are sharing a few people with  
14          the states that don't have so many properties to  
15          deal with.

16                      MR. FLANIGON: That is a good thought,  
17          and that could very well be something that the  
18          work group would -- I would hope take a look at  
19          and make some suggestions in that area. Tom.

20                      MR. PRENDERGAST: -- with Georgetta, I  
21          think one of the ways maybe to do it is we could

1 not do an exhaustive series of presentations, but  
2 you have the gamut to deal with the scalability  
3 issue, and not only the history issue.

4 I don't know for sure, but the PUC has  
5 been around a long time, probably 30 or 40 years,  
6 I guess, since the creation of BART. In your  
7 evolutionary history I'm sure you would change  
8 your approach and you will learn an awful lot.  
9 But to be able to hear from you and when you get  
10 the New York State Public Transportation Safety  
11 Board, both the person at the state level as well  
12 as those at the agency level themselves about how  
13 that evolutionary history worked and what did work  
14 and what didn't work, and what is the proper  
15 balance for providing the necessary oversight.  
16 And the FTA has to be part of that discussion.

17 A number of people have touched on it,  
18 but the thing we have to be careful of is that  
19 there this is a finite number of people that can  
20 spell system safety, let alone talk about it;  
21 there is a finite number of people that can talk

1           about safety management systems, and what we don't  
2           need to do is -- we need create a higher level of  
3           intelligence across a broader scale. And we are  
4           all trying the do that.

5                         But if we don't think about how we can  
6           balance those resources at a federal level, a  
7           state level and a local level, that unbalance and  
8           the quality of the resources is going to cause us  
9           problems.

10                        What I would propose is that we identify  
11           a representative sample of state oversight  
12           agencies, that you come and give presentations in  
13           concert with the agencies that they have oversight  
14           responsibility for, what works, what doesn't work,  
15           whatever, to help provide that level of experience  
16           and knowledge that they can help us define what we  
17           want to do.

18                        MR. FLANIGON: Thanks, Tom.

19                        The interesting side of the California  
20           PUC used to be the California Railroad Commission.  
21           That dates back to Johnson --

1                   MR. CLARK: 1911. We are in our 100th  
2 year.

3                   MR. FLANIGON: To counteract the evil  
4 Southern Pacific Railroad that was the octopus of  
5 (inaudible) that had its tentacles into politics  
6 in the -- by constitutional amendment, the PUC  
7 headquarters has to be in San Francisco; it cannot  
8 be in Sacramento, so it is not contaminated by the  
9 politicians in the state capital.

10                   Rick.

11                   MR. INCLIMA: Thank you, Mike. You  
12 know, I am probably at a bit of a disadvantage not  
13 having a lot of experience in the transit side,  
14 but I -- you know kind of echoing some of the  
15 comments, I think it would be helpful if we could  
16 get, you know, an outline, if you will, of  
17 existing state oversight organizations, you know,  
18 what they do, you know what is their scope and  
19 level of responsibility, and you know, maybe  
20 how -- you know, to what extent they interact with  
21 FTA, et cetera, because I think it was Tom who

1       said it earlier that it sounds like the task is  
2       let's look at what is out there and let's cherry  
3       pick the best of what is out there and say this is  
4       what -- to the extent we say, this is what we  
5       should all be aspiring to.

6               And I don't know how we do that, unless  
7       we start with the baseline of what is there now,  
8       you know, so we can start saying -- picking and  
9       choosing, well, you know, they have a very good  
10      program in this section and they have a very good  
11      program in that section, and let's build a model  
12      and hold it up there as an example of what the  
13      agency and the committee would like to see.

14              I don't know how difficult that would  
15      be. But it certainly, I think, would be helpful  
16      for the group, because you know, as a starting  
17      point. Because the guy in California probably,  
18      I'm sure, has a great program, but he doesn't know  
19      what is going on the Connecticut, and vice versa.

20              MR. FLANIGON: Good point. We actually  
21      have some comparative tables of different staffing

1 levels and experience levels and authority levels,  
2 and so forth that could be useful to the committee  
3 when the time comes to sit down and look at that.

4 MR. LIBBERTON: We have also done best  
5 practice as well as publish those kind of  
6 inventory and some of the things they do. That  
7 would be an input. And I wonder if perhaps by  
8 tomorrow could we, if not have physically could we  
9 kind of summarize inventory in terms of resources  
10 is that would be helpful to work on this.

11 MR. FLANIGON: Probably, maybe.

12 MR. LIBBERTON: Maybe not. Maybe we  
13 will get back to you.

14 MR. FLANIGON: At the point where the  
15 work group forms up we will have everything that  
16 we can put together, we will. And I think we very  
17 well might have a pre-summary of some things we  
18 can do to make that homework assignment for  
19 somebody.

20 Jackie.

21 MS. JETER: That is what I was going to

1 say, because I don't -- I think that the reason  
2 that this committee or this group was created was  
3 because it is not -- there is not a prevalent  
4 practice out there of having oversight committees  
5 or, you know, some type of regulatory body in each  
6 state that is going to do this.

7 So, we may be able to cherry pick from  
8 those who have it, you know, but I don't think  
9 that we are going to get some of the best -- you  
10 know, I going to refer to my colleague here from  
11 California. They happen to be on one of the  
12 better regulatory or oversight committees or  
13 whatever you want to call them, and they are  
14 there. And I think that is why they bring their  
15 expertise.

16 I think that we should cherry pick, but  
17 I don't think that spending a great deal of time  
18 trying to find that ideal agency, I don't think we  
19 are going do get it. I think we are going to have  
20 to create what we think they should do.

21 MR. FLANIGON: So, it's more of a

1 functional and what function should this ideal  
2 capital agency daily perform.

3 MS. JETER: Yes.

4 MR. FLANIGON: I think Dave is next.

5 MR. GENOVA: Just a couple of things.  
6 One is I think one of the things on tomorrow's  
7 agenda is the inputs, like the information that we  
8 are going to review. And I think one of the  
9 things that would be helpful in that process that  
10 I didn't see listed there were the best practices  
11 that have come out of the audit process of the  
12 SSOs by the FTA. And then also, perhaps, those  
13 audit reports.

14 And that way we would see which SSOs did  
15 really well in the audits; which ones not so good.  
16 But not so much to -- who is doing well and who is  
17 not doing well, but to identify what the good --  
18 what is working well and what is not working well.  
19 I think that would be really helpful input into  
20 the process.

21 Also I noticed in the presentations

1           there was a lot of discussion about collaboration.  
2           And I don't know if anybody said that yet around  
3           the table, but for those SSO models that I think  
4           are working well, that we know about industry,  
5           there is a great deal of collaboration between the  
6           SSO and the transit agency.

7                         And that was one of the questions on  
8           this relationship issue is, how should the SSO be  
9           in relationship to the FTA and then also in  
10          relationship to the transit agency. And I think  
11          the more collaboration we have built into that  
12          model, the more successful it will be, too.

13                        MR. FLANIGON:   Okay.   Rich.

14                        MR. KRISAK:   I was going to just suggest  
15          that based on a previous comment we heard earlier  
16          from your cochair, that we should extend that best  
17          practices beyond just state oversight in the U.S.,  
18          but look at Asia and Europe. Look at those models  
19          and try to pick the best out of those as well.  
20          So, just expand the scope a little further.

21                        And then the other comment I have,

1           having worked with a couple of different state  
2           safety oversight issues, our agencies is kind of  
3           what Georgetta was getting to. They comment on  
4           things like punctuation and such, because that is  
5           essentially where their level of knowledge is.  
6           And unless they bring a strong consultant in to  
7           help them out, most of them don't really  
8           understand what they are looking at. So, they  
9           approach it very much as a programmatic exercise  
10          to satisfy the MTA, but in terms of in-depth  
11          knowledge and expertise, they don't have it.

12                       MR. FLANIGON: Rick.

13                       MR. INCLIMA: Thank you, Mike. Just to  
14          follow up on my last comment, because, you know,  
15          it is a big undertaking in itself for us to come  
16          up with this, because no one -- no one sees  
17          everything -- perhaps, as I think about it,  
18          perhaps the FTA is the only one that sees them  
19          all.

20                       And with that, would it make any sense  
21          to the group, with all of the other data and

1 things we are going to look at, that perhaps FTA,  
2 you know, develop a, you know, strawman or a  
3 bullet list of what you think are important  
4 from -- you know, from where you sit and from what  
5 you see. That might be -- you know, that might  
6 help us cut to the chase. And then we could, you  
7 know, build upon that as a means to an end. Just  
8 a suggestion.

9 MR. FLANIGON: Thanks. That is a good  
10 thought. Eric.

11 MR. CHENG: I have two comments.

12 MR. FLANIGON: Mr. Vice Chairman.

13 MR. CHENG: I have two comments. First  
14 of all, I want to echo Harry's comments. I  
15 feel -- you know, each state is different, but  
16 maybe it would be a good idea for FTA to provide  
17 some expertise, experts, inspectors to help state.  
18 That means help. That is the first thing I want  
19 to say.

20 Secondly, is that I still, you know, the  
21 model we need to help to keep the flexibility. In

1 Utah we have discussed this kind of positions, you  
2 know, what kind of setup we want to use. We feel  
3 that we should have options to, you know, use the  
4 major (inaudible) of state of technical experts,  
5 but we should be able to allow to use consultant  
6 to help with things like that, because that is a  
7 long-term. We just use a dedicated person that  
8 affect the department, of course, internally. But  
9 that is how we feel.

10 MR. FLANIGON: Thanks. Other thoughts  
11 or comments?

12 MS. JETER: How long did you intend the  
13 question and answer to go on? I want to say  
14 something but I don't want to -- if you are trying  
15 the wrap up -- I'm trying to be gracious.

16 (Laughter.)

17 MR. FLANIGON: As the chairman of this  
18 robust committee, I am authorizing unlimited,  
19 unpaid over time.

20 (Laughter.)

21 MR. FLANIGON: So please.

1 MS. JETER: Eric actually mentioned  
2 consultant, and that is one of the things that was  
3 mentioned earlier. I don't know if getting into  
4 that direction is good, because if you get into  
5 the directions of hiring consultants, then don't  
6 you take away from the agency themselves policing  
7 their own safety and their own practices?

8 And, you know, I can only speak from my  
9 own experience at WMATA, and we brought Dupont in,  
10 one of the better ones. We brought them in 2  
11 years before the accident, we still had the  
12 accident.

13 So, you get away from policing  
14 yourselves when you do that. And I think that as  
15 a group, I think we ought to steer clear of that.  
16 What we are trying to do is to get the agencies to  
17 do the work. And if we start talking about  
18 getting them ways out, I don't think they are  
19 going to do that.

20 MR. FLANIGON: That is a good thought.  
21 I think it speaks to building the internal

1 capacity, whether its is in the regulatory agency  
2 or the oversight agency, or the transit agency.  
3 And having that basic skill set in-house and able  
4 to work, I guess there is a balance, given the  
5 idea of scalability and, you know, the 2-mile  
6 streetcar line that can't afford to have the full  
7 range of technical expertise that the larger  
8 systems would.

9 So it I think it is a fruitful area for  
10 the work group that eventually gets stood up here,  
11 that we will be talking more about tomorrow to  
12 explore those kinds of options, those balances,  
13 and so forth. Tom.

14 MR. PRENDERGAST: Honestly, I think you  
15 kind of got to the point I was going to make, but  
16 I don't think I is either/or. I definitely agree  
17 that if we have people in the oversight capacity  
18 that don't have that the technical expertise to be  
19 able to understand whether or not the agency is  
20 doing what is required or not, that is going to be  
21 a loss, and that is going to hurt the ability of

1 the state oversight agency to effectively perform  
2 its oversight function.

3 On the other hand -- so, let's not throw  
4 the baby out with the bath water. I think you can  
5 bring in consultants with specific expertise that  
6 you need, but don't turn over the management and  
7 direction of those consultants. Have that  
8 management and direction still at a state level  
9 and the state makes the decision, because I think  
10 that is the best -- that can be a best of both  
11 worlds.

12 I have a metallurgist, because we buy so  
13 many cars and we do so much work on the design of  
14 a car truck, that I can afford actually two  
15 metallurgists. But if you are a smaller property,  
16 you are going to contract out for that resource.  
17 It is the same logic. So, I think is what we  
18 ought to look at in terms of how to find the best  
19 balance between those two.

20 MR. FLANIGON: Okay. I think Ed and  
21 then Bill.

1                   MR. WATT: I think it might be more  
2                   important to look in to see where these particular  
3                   consultants have come from and if they have  
4                   evolved, let's say. We just sat through several  
5                   hours of presentation, as they talked about the  
6                   industry has moved -- the safety industry has  
7                   moved past looking at sharp end and the actual  
8                   accident point. So I think we should, you know,  
9                   keep that in mind and have the same types of best  
10                  practices or instructions for the consultants that  
11                  we would have for our internal auditing agency and  
12                  right down the line. Otherwise, you contract out  
13                  responsibility as well as contracting out the  
14                  task, as I think Tom was talking about.

15                  MR. FLANIGON: Thank you. Bill.

16                  MR. GRIZARD: Thanks, Mike. The whole  
17                  issue on, you know, what is fit for purpose I  
18                  think needs -- you know, it needs some kind of  
19                  performance base to it. But specifically on  
20                  consultants, I think we are -- we are -- we need  
21                  to look at a third party expertise. And it may

1 not be a consultant.

2 As Henry pointed out, and I think he is  
3 right, having a stable of technical experts on a  
4 national basis more as a quality control rather  
5 than anything else would be an important feature,  
6 and then to be able to loan them out to the states  
7 where they need that expertise would be an  
8 additional factor.

9 But there is also plenty of people in  
10 the industry that do have the expertise. And I  
11 know in California they draw upon their own folks  
12 from different levels. In rail, I think, you  
13 know, they have a track guy that is -- a couple of  
14 track specialists they can draw on and bring them  
15 into rail transit area and get comments from them.

16 The same thing is true from some of the  
17 other agencies. And APTA has been successful over  
18 the years with what they call peer reviews.

19 And so, you know, I wouldn't say that  
20 contracting is the only -- only answer here. And  
21 I would go back and take a look and say, okay,

1           what fits the purpose of what we are trying to  
2           achieve, and then identify suitable options and  
3           perhaps at some point there may be even a  
4           certification course or something that the folks  
5           that provide that type of service could be --  
6           could at least show that they can achieve that  
7           qualification level.

8                       MR. FLANIGON:  I think our discussion is  
9           going in a very positive place, but I think it is  
10          the place that the work group itself will start  
11          flushing this sort of stuff out.  And so I think  
12          we have kind of already started some of the  
13          people, and I would hope who have, based on those  
14          comments, would want to be part of that work  
15          group.  Let's -- is that Georgetta?  I have  
16          trouble reading sideways.

17                      MS. GREGORY:  I like Bill's suggestion  
18          about a collective pool of consultants maybe at  
19          the federal level that the states could draw from.  
20          I think that would -- we should make note of that.  
21          That is a very good idea.

1           I would like to pose the thought that  
2           state safety oversight transit agency, whoever,  
3           when we become too reliant upon consultants, is  
4           that is not counterintuitive to the very safety  
5           culture we are proposing here?

6           There are some very good consultants out  
7           there, and they do have their place in the  
8           industry. But you know what, at the end of the  
9           day, they take their money and they are gone. And  
10          it is the people who are left working at the  
11          agency and for the states and for the feds that  
12          have to live with the product.

13          And I think that it is time that we do  
14          develop that curriculum to get the people trained  
15          and certified at the state level, because we are  
16          talking about the states here, rather than the  
17          total reliance upon the consultants to do that  
18          task.

19          I think the real issue, and hopefully  
20          this will come out in some of the data that you  
21          provide for the group, Mike is that there is such

1 a variance in the structure of the state oversight  
2 agencies. Most of them lie within the state  
3 Department of Transportations, there is a huge  
4 conflict of interest there, because the primary  
5 function of the DOT is to administer grants and it  
6 is sideline work for the state oversight manager.  
7 It is not their primary task.

8 So, they are not dedicated nor do they  
9 have the time to do that, and the certainly don't  
10 have the time to go to the properties and learn  
11 the business.

12 And, for instance, the consultant that I  
13 referred to earlier, the Georgia DOT has  
14 completely turned over the state safety oversight  
15 function to a consultant, and that is  
16 counterintuitive to our goal.

17 MR. FLANIGON: Okay. Thanks. Diane.

18 MS. DAVIDSON: Well, I had the advantage  
19 of having both the transit and the rail oversight  
20 authority. And you are correct, the transit side  
21 we had no expertise, nor did we have a structure

1 organized by disciplines; but on the rail side we  
2 did. And we drew on that.

3 Those folks had continuous training  
4 provided by FRA. And they could also draw on  
5 regional a pool of expertise at each regional  
6 agency.

7 I would submit that having that  
8 expertise reside at a regional level works very  
9 well. Maybe for -- if we could develop a sense of  
10 what disciplines most associate with passenger  
11 rail and then for the disciplines that require  
12 greater physical expertise and more difficulty to  
13 maintain and really keep someone busy at states  
14 where, say, the incline, historic incline at CARTA  
15 can't support something of that level, that then  
16 the states in that region could draw on that pool  
17 from the region.

18 And that would make it much more cost  
19 effective to provide that kind of service and not  
20 have to rely on consultants that -- I mean, they  
21 have a great role to play but, there is a lot of

1 turnover and movement within the consultant  
2 community that is sometimes disruptive.

3 MR. FLANIGON: Okay. Thanks. With  
4 that, I will make three announcements and we will  
5 conclude our work for the day.

6 First announcement is that you can leave  
7 your notebooks and so forth. The room is going to  
8 be locked up.

9 Second announcement, just a reminder  
10 that our -- we now have a reception starting in  
11 Room Number 5. Up one level and keep going that  
12 way.

13 And third announcement tomorrow being  
14 Friday and I'm California by birth and in the  
15 grand tradition of California, it is dress down  
16 Friday. So we can be business casual tomorrow for  
17 anybody who doesn't want to wear a tie female  
18 equivalent of a tie.

19 With that, thank you everybody and we  
20 will reconvene tomorrow morning at 8:00 o'clock,  
21 but 7:00 o'clock for coffee and conversation. We

1 got to get you up a little earlier tomorrow -- I'm  
2 sorry, 7:30 for coffee and so forth. 7:30 a.m.,  
3 8:00 o'clock start. Thank you.

4 (Whereupon, the meeting adjourned at  
5 5:00 p.m.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

REPORTER'S CERTIFICATE

I, DONNA M. LEWIS, RPR, Certified  
Shorthand Reporter, certify;

That the foregoing proceedings were  
taken before me at the time and place therein set  
forth;

That the statements made at the time of  
the meeting were recorded stenographically by me  
and were thereafter transcribed;

That the statements are an reflection of  
the edits furnished by one or more of the  
participants after a transcription of my shorthand  
notes so taken to the best of my ability.

Dated this 21st day of September, 2010.

  
Donna M. Lewis, RPR