

**TESTIMONY OF
WILLIAM W. MILLAR
PRESIDENT
AMERICAN PUBLIC TRANSPORTATION ASSOCIATION
SUBMITTED TO THE
HOUSE APPROPRIATIONS SUBCOMMITTEE ON HOMELAND SECURITY**

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SUBMITTED BY

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APTA is a nonprofit international association of nearly 1,500 public and private member organizations including transit systems and commuter rail operators; planning, design, construction and finance firms; product and service providers; academic institutions; transit associations and state departments of transportation. APTA members serve the public interest by providing safe, efficient and economical transit services and products. Over ninety percent of persons using public transportation in the United States and Canada are served by APTA members.

Mr. Chairman, thank you for this opportunity to provide testimony to the Subcommittee on the security needs of the public transportation industry for Fiscal Year 2010. We appreciate the fact that you and this committee have made security a priority for the tens of millions of Americans who use public transportation an important priority of this Committee. We look forward to working with you on this issue and thank you for your leadership on transit security.

ABOUT APTA

The American Public Transportation Association (APTA) is a nonprofit international association of nearly 1,500 public and private member organizations, including transit systems and commuter rail operators; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and state departments of transportation. APTA members serve the public interest by providing safe, efficient, and economical transit services and products. More than ninety percent of the people using public transportation in the United States and Canada are served by APTA member systems. In accordance with the National Infrastructure Protection Plan, APTA is recognized by the Department of Homeland Security (DHS) as serving the capacity of the Mass Transit Sector Coordinating Council (SCC).

PUBLIC TRANSIT SECURITY/ ALL HAZARDS RISK EXPOSURES & NEEDS

Public transportation is a critical component of our nation's infrastructure. Americans take more than 10.7 billion transit trips each year. People use public transportation vehicles more than 35 million times each weekday. This is eighteen times the number of daily boardings on the nation's domestic airlines.

Both the Administration and Congress have fully acknowledged that terrorist threats to transit agencies are real, and have not diminished. The Government Accountability Office (GAO) released a 2002 report which said "about one-third of terrorist attacks worldwide target transportation systems, and transit systems are the mode most commonly attacked." More recently, on February 29, 2008, the Office of Intelligence of the Transportation Security Administration (TSA) released a report concluding that public transportation in America remains vulnerable to terrorist attack. The report states: "The volume of previous attacks and recent plotting against mass transit systems overseas demonstrates continued strong terrorist interest in targeting this sector." The report further states that: "Previous rail attacks in Madrid, London, and Mumbai could inspire terrorists to conduct similar attacks in the United States." Transit agency and passenger risk exposure is very real, and threats upon systems and their operations have, in fact, occurred and continue.

Safety and security have always been the top priority of the public transportation industry. Since 9/11, transit systems have taken many steps to further improve security. Public transit agencies with state and local governments, have invested billions of dollars on security and emergency preparedness programs. While we are pleased that Congress recognizes the importance of investing in the safety of public transportation, federal investment in transit security has been minimal when compared to other transportation modes. For example, since 9/11 the federal government has spent nearly \$30 billion on aviation security and has allocated only \$1.4 billion for transit security.

In 2004, APTA surveyed U.S. transit agencies to determine what actions were needed to improve security for their customers, employees and facilities. In response to the survey, transit agencies around the country identified in excess of \$6 billion in transit security investment needs.

State and local governments and transit agencies are doing what they can, but it is important for the federal government to increase support for transit security.

In August, 2007, H.R.1, the 9/11 Commission Recommendations Act of 2007, was signed into law (Public Law 110-53). The legislation authorizes \$3.4 billion in transit security funding over a four year period. The legislation also set in place a number of the structural elements that APTA and the nation's transit systems had been seeking, including broad eligibility for capital and operational improvements, a rejection of a "one-size fits all" approach to transit security, a recognition of the open nature of transit facilities and services, interagency coordination between DHS and DOT, consultation and coordination at all levels of government and with industry stakeholders, information sharing and intelligence analysis, research and development, and fair enforcement and liability considerations.

PROGRAM NEEDS AND GRANTS

APTA asks the committee to provide appropriations for the FY 2010 Transit Security Grant Program (TSGP) in the amount of \$900 million, the level authorized under the 9/11 Commission Recommendation Act of 2007. We appreciate Congress' recognition of the importance of securing our nation's transit systems by providing substantial funding in the FY 2009 Department of Homeland Security Appropriations bill and the American Recovery and Reinvestment Act (ARRA). However, even those funding levels have not adequately addressed the overwhelming security needs identified by APTA members or met the authorized levels for those programs. We further ask that you again include language that directs DHS to award funds directly to transit agencies and prohibits DHS from imposing a local match requirement, consistent with Congressional intent expressed in the conference report of the 9/11 Commission Act.

The grant application and award process needs to be streamlined dramatically. We are hopeful that the oversight efforts of Congress, which have led to recent proposed reforms in the TSGP grant process, will achieve the desired results and expedite the delivery of funds to transit agencies with security improvement needs.

It is important to recognize that, for several years now, APTA and its member transit agencies have sought procedural simplification, urging that grants be provided directly to transit agencies and without local match requirements. We greatly appreciate that Congress included in the ARRA prior-year provisions that direct DHS to award funds directly to public transportation agencies, and prohibit DHS from imposing a local match requirement. The delays in grant distribution and obligations in recent years and the continual reorganization of the relevant agencies within DHS should not prejudice funding for transit security in FY2010. The security needs remain and have not diminished, and APTA's member agencies remain committed to the expeditious obligation and expenditure of funds to their important security projects.

In addition to the transit security grant funding, we urge Congress to provide \$600,000 to enable APTA to maintain and operate the Public Transit Information Sharing Analysis Center (ISAC). Funding for this program was authorized under the 9/11 Commission bill under Section 1410 (d), which provides for the sharing of security information between transit agencies and DHS. The ability to share vital information is crucial in preventing and mitigating potential terrorist attacks.

Although we have been advised by DHS that a one-year grant will be provided to sustain this important resource, its continuity remains uncertain.

We also urge Congress to provide \$500,000 to DHS for the APTA security standards program. APTA is recognized as a Standards Development Organization (SDO) for the public transportation industry. H.R. 1 requires that DHS work with the transit industry. We are applying our growing expertise in standards development to transit industry safety and security, best practices, guidelines and standards. Over the last several years, APTA has worked closely with the Department of Transportation (DOT), DHS and industry leaders to develop standards that help transit agencies use available resources as effectively as possible. And while this program has proven its success, its continuity also remains uncertain as short term grants through the U.S. DOT have now been exhausted.

The ISAC and security standards are two important national programs that, although modest in funding needs, can significantly enhance transit security at the local level.

We must also point out that the recent Budget submission of this Administration cites a proposal to add “Funding of \$50 million [which] will provide 15 new Visual Intermodal Protection Response Teams at the Transportation Security Administration to increase additional random force protection capability by deploying to transit hubs unannounced.” This proposal was not discussed with the transit industry, and it is expressly prohibited under the provisions of the 9-11 Commission Act (Sec. 1303). We have urged the Administration to reconsider the “unannounced” provision of this proposal that conveys a message that is in conflict with established procedures and legislation, and to make a greater effort to coordinate with the transit industry in advance of such future proposals.

Finally, with regard to technology research and development, it is the general view of the industry that there is no current formal structure that brings the federal government and transit industry together to discuss transit security technology priorities, needs and areas of potential interest for technology advancement and research. The public transportation industry has, over the recent years, cooperated with DHS to provide test-beds for evaluating various technologies but the types of technologies to be tested were unilaterally determined by DHS. To date, there have not been any collaborative meetings with transit operators to identify needs relative to security technology or research. Any format for strategic planning of security technology research and development that does not fully engage the actual industry is inherently flawed. It is imperative therefore that DHS instruct the Transportation R & D Working Group to enlist representation from Mass Transit and other transportation sectors and to include such representation as full participants including preliminary stages of needs identification and strategy development.

SECURITY INVESTMENT NEEDS

Since the events of 9/11, the transit industry has invested billions of its own funds for enhanced security measures, building on the industry's already considerable efforts. At the same time, our industry conducted comprehensive reviews to determine how we further improve on existing security practices. This effort has included a range of activities, which include research, best practices, education, information sharing in the industry, and surveys. As a result we have a better understanding of how to create a more secure environment for our riders and of the most critical security investment needs.

Our survey of public transportation security identified enhancements of at least \$5.2 billion in additional capital funding to maintain, modernize, and expand transit system security functions to meet increased security demands. Over \$800 million in increased costs for security personnel, training, technical support, and research and development have been identified, bringing total additional transit security funding needs to more than \$6 billion.

Responding transit agencies were asked to prioritize the uses for which they required additional federal investment for security improvements. Priority examples of operational improvements include, but are not limited to:

- Funding current and additional transit agency and local law enforcement personnel
- Funding for over-time costs and extra contract security personnel during heightened alert levels
- Training for security personnel
- Joint transit/law enforcement training
- Security planning activities
- Security training for other transit personnel

Priority examples of security capital investment improvements include:

- Radio communications, including interoperable systems
- Security cameras on-board transit vehicles and in transit stations
- Controlling access to transit facilities and secure areas
- Automated vehicle locator systems
- Security fencing around facilities
- Intrusion detection systems
- Asset and facilities hardening
- Infrastructure that supports law enforcement resources

The 9-11 Commission Act recognized a broad range of security improvements and activities as eligible uses of transit security grant funds. DHS and TSA have promulgated grant program guidance that aim to restrict the eligible uses of funds in a manner inconsistent with the goals of the authorizing legislation. We urge Congress and the Administration to work to maintain the broad eligibility as intended under the authorizing legislation.

ORGANIZING FOR IMPROVED HOMELAND SECURITY AND COUNTERTERRORISM

APTA recently provided recommendations to the presidentially appointed Study Team currently conducting its interagency review of organizational reform of homeland security and counter-terrorism structures and initiatives. Efforts to improve the current organization of Homeland Security programs as they relate to public transportation security can be undertaken within the basic framework that currently exists. Certain approaches to policy and program administration may need to be altered, but largely the base structure is already in place. Our comments relative to options for improved Homeland Security policy and organizational management in several specific topical areas follow.

Interagency Coordination

The impressions of the mass transit sector since the creation of the Department of Homeland Security are that while we, as an industry infrastructure have made some gains in establishing working relationships with the various DHS Directorates, we continue to see examples of competition, strained relationships and silos within the Department. This condition ultimately results in delays, deferrals and duplication of effort.

A similar condition is seen to exist between the DHS and the DOT, in spite of the Public Transportation Annex to the Memorandum of Understanding (MOU) that was intended to provide a path for partnership and collaboration.

Similarly, it is the impression of the mass transit sector that while we have seen some strengthening of the outreach and partnering between DHS and this sector through activities such as the “Coordinating Councils”, we continue to see DHS proceed on critical activities such as security technology research and development unilaterally and without seeking industry input. We recommend that DHS continue to expand its outreach to the Mass Transit SCC and other industry-wide organizations through the DHS Directorate of Science and Technology and the TSA Chief of Technology Office with respect to security technology research and development.

The statutory provisions of the 9-11 Commission Act stressed significant consultation and coordination between the DHS and DOT components. The responsibility for successful interagency coordination must ultimately rest with department and agency leadership, but oversight by OMB and senior White House officials could assist in this regard. Further, utilizing existing mechanisms and structures, such as the Mass Transit SCC and federally recognized Standards Development Organizations (SDOs) such as APTA can assist in bringing multiple federal agency partners to the table to work through complex and difficult issues.

Seamless Integration between International and Domestic Efforts

The proliferation of international terrorism upon mass transit facilities and services exemplifies the need to ensure that international agreements are achieved and nurtured to enable information and resource sharing as well as communication of lessons learned. Such agreements must, however, transcend beyond government and should be expanded to include the involvement of those infrastructures such as mass transit.

The goal of integrating domestic and international efforts can also be fulfilled through existing structural and programmatic means within the transit security arena. Even before the attacks

of September 11th, APTA had been working with international industry members to evaluate security planning efforts and best practices, analyzing the responses to overseas terrorist attacks on and around transit assets. Our collaboration with our international members and partners has been of particular assistance in the immediate aftermath of several of the most recent international transit security incidents. APTA members include London Underground Limited, Metro de Madrid, S.A., and the Moscow Metro, and APTA was able to coordinate and communicate with each of these systems literally within hours of the terrorism incidents each experienced. APTA International membership includes many others across Europe, South America, the Middle East and Asia. APTA Members and staff also serve on the Security Commission of the International Union of Public Transport based in Brussels. These efforts are the model for international cooperation in the security arena.

Capability to Coordinate Planning for Federal Response to Domestic Incidents

Many of the programs authorized under the 9-11 Commission Act provide a framework for organization with regard to coordinated security planning and incident response. Interagency coordination, and coordination with industry stakeholders through the existing frameworks of the Mass Transit SCC, SDO, and ISAC, all provide opportunities for improvement in this area.

A number of our member agencies have strong emergency response exercise programs and this same DHS-supported effort should be expanded to other transit agencies. The most effective method for determining the effectiveness of plans is to put them to an actual test. While DHS has undertaken very large scale exercises through programs such as “TOPOFF”, it would be advisable to expand the nationally sponsored drills and exercises to test on smaller scales as well and to alternate the focus of the drills so that each of the critical infrastructures can be effectively included.

Capacity to Coordinate Stakeholder Efforts to Respond to Domestic Incidents

One of the weaknesses we see under current law particularly applies to federal coordination with transit industry partners and the application of the DHS/FEMA “All Hazards” approach to policy. As elements of state, regional and local government, transit systems throughout the country have historically and regularly assisted in the response to natural disasters. As a result, transit systems capacities and needs should be considered during any and all planning for preparedness, response and recovery.

APTA member systems have assisted directly with the response to numerous natural disasters over the last decade, including Katrina/Rita, flooding in the Midwest states, the Northridge earthquake, and forest fires in the Western states. This is certainly in addition to our response to the terrorism-induced disaster of September 11th. It was our response to 9-11 that led many of us in the industry to truly view our transit employees as ‘First Responders’. There are many areas where federal assistance and improved collaboration could enable the transit industry to provide greater support and assistance to communities affected by natural disasters.

APTA strongly supports the concept of planning for incidents from an “All Hazards” perspective. It has been our experience that often the same technologies, plans and resources that are brought to bear in addressing a security incident are similar to those that are required in other forms of incidents and emergencies. Consequently, economies and efficiencies can be realized where grants that are currently narrowly restricted only for counterterrorism application can be utilized to also address other hazards. We would therefore encourage that the use of DHS grants be expanded to enable such broader and more complete application, with, of course, the appropriate justifications being provided.

CONCLUSION

In light of the nation's heightened security needs since 9/11, we believe that increased federal investment in public transportation security is critical. The public transportation industry has made great strides in transit security improvements since 9/11 but much more needs to be done. We need the federal government to increase its support for transit security grants that help transit systems address the \$6 billion in identified transit security investment needs. We urge Congress and the Administration to fully fund and implement the provisions set out in the 9/11 Commission Recommendations Act. It should also be understood and appreciated that investment in public transit security programs, resources and infrastructures provides a direct benefit in preparation and response to natural disasters as well.

We thank you for the opportunity to submit testimony on the security needs of our nation's transit agencies and their riders. We thank you for everything Congress has done to date leading to improvements and efficiencies that will, in turn strengthen the safety and security for the millions of people who use transit every day.