

# METRO: REPORT CARD FOR AMERICA'S SUBWAY

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## HEARING

BEFORE THE  
SUBCOMMITTEE ON GOVERNMENT OPERATIONS  
OF THE  
COMMITTEE ON OVERSIGHT  
AND REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

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# C O N T E N T S

Hearing held on October 22, 2019 .....	Page 1
WITNESSES	
Mr. Paul Wiedefeld, General Manager and Chief Executive Officer, Wash- ington Metropolitan Area Transit Authority Oral Statement .....	7
Mr. Paul Smedberg, Chair, Board of Directors, Washington Metropolitan Area Transit Authority Oral Statement .....	8
Mr. Geoffrey Cherrington, Inspector General, Washington Metropolitan Area Transit Authority Oral Statement .....	10
Dr. David L Mayer, Chief Executive Officer, Washington Metrorail Safety Commission Oral Statement .....	11
<i>Written opening statement and statements for the witnesses are available on the U.S. House of Representatives Document Repository at: <a href="https://docs.house.gov">https:// docs.house.gov</a>.</i>	

## INDEX OF DOCUMENTS

*Documents entered into the record during this hearing and Questions for  
the Record (QFR's) are listed below/available at: <https://docs.house.gov>.*

- \* Unanimous Consent: Prepared Opening Statement of Majority Leader  
Steny Hoyer.
- \* Unanimous Consent: Prepared Opening Statement of Rep. Glenn  
Grothman.
- \* Unanimous Consent: Prepared Opening Statement of Mr. Cherrington.
- \* "Metro's Pensions are not the problem", *Washington Post*, September  
22, 2018; submitted by Chairman Connolly.



## **METRO: REPORT CARD FOR AMERICA'S SUBWAY**

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**Tuesday, October 22, 2019**

HOUSE OF REPRESENTATIVES  
SUBCOMMITTEE ON GOVERNMENT OPERATIONS  
COMMITTEE ON OVERSIGHT AND REFORM  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 2:09 p.m., in room 2154, Rayburn Office Building, Hon. Gerald E. Connolly (chairman of the subcommittee) presiding.

Present: Representatives Connolly, Norton, Sarbanes, Raskin, Massie, Grothman, Comer, and Steube.

Also present: Representatives Hoyer, Wexton, and Trone.

Mr. CONNOLLY. The subcommittee will come to order.

Without objection, the chair is authorized to declare a recess of the committee at any time.

The subcommittee is assessing the operations and management of the Washington Metropolitan Area Transit Authority Metrorail system. And before I recognize myself and the ranking for an opening statement, we are graced to have the majority leader of the House of Representatives with us, and I want to defer to him for his opening remarks should he choose.

Mr. HOYER. You are very kind, Mr. Chairman. Thank you very much. As you know, I have been working on the Metropolitan Transit system, and when I first ran for office in 1966, which is about when we started, Carlton Sickles was a candidate for Governor. I ran on his ticket. He was one of the fathers, one of the parents of the Metropolitan Transit System. Then when I came to Congress, I worked very closely with Frank Wolf to ensure that the system was completed. And I am pleased to be here. Thank you very much for your courtesy, Mr. Chairman.

All of us continue to be deeply saddened, of course, by the loss of our colleague and friend, and a great American, and a great member of this body, Elijah Cummings. We worked closely together on so many things. I know that this committee mourns his loss deeply.

I appreciate the opportunity to join the members of this subcommittee today to ensure that Congress is conducting its proper oversight of the Metro system, which serves our Nation's capital and the greater Washington region, part of which I obviously represent. I am proud to represent many of its suburban communities in Maryland, the district home to 62,000 Federal employees, many of whom rely on Metro to commute to their place of employment every day. Approximately one-third of Metro's riders, of course,

during peak hours are Federal workers, and the majority of Metro-rail stations serve Federal facilities, making the system a critical lifeline for our Nation's government workers.

So many of our predecessors with whom I have worked, in particular, Mr. Lehman from Florida who chairs the Appropriations Subcommittee on Transportation, viewed our subway system as America's subway because not only because a lot of Federal workers use it, but extraordinarily millions of tourists use our system as well. The efficient and responsive operations of our government depends on ensuring that the Federal employees of the Greater Washington Metropolitan Area have a safe, reliable, and effective transit system.

In the past few years, we have seen major improvements in safety and reliability, though, of course, there is much still to be done. I find it very reassuring that Mr. Wiedefeld, our leader, has been working closely with Raymond Jackson, the new president of the ATU Local, that they have been able to improve the relationship between WMATA and its workers. After all, both the administration and those who implement the policies on a daily basis are critically important in improving and maintaining safety in our system. I appreciate that very much, and I know riders will appreciate it as well.

Mr. Chairman, I was proud to work closely with Mr. Wiedefeld, and with the union, and with commuter advocates to introduce legislation in 2017 with your partnership and others, Ms. Norton and others from our region, to provide congressional authorization for the Metro Safety Commission and to support its work. Safety for riders and employees must remain Metro's No. 1 priority. That is why I am committed, Mr. Chairman, as I know you are, as I know Ms. Norton is, and I know the members of this committee on both sides of the aisle are committed to pursuing continued improvements in safety and reliability.

I thank the witnesses. Mr. Chairman, before you came in, I had the opportunity to say hello to them individually, and I thank them for coming here today to share an update with the subcommittee and with the Congress. I look forward to continuing to work with my colleagues, with Metro, with the workers union, and with riders' advocates to ensure that Metro continues improving and can achieve the highest standards of safety and reliability. As you probably know, Mr. Chairman, the head of our transit system, Mr. Wiedefeld, was in Maryland for a long period of time and did an outstanding, extraordinary job there. I know Mr. Sarbanes knows that as well. But I thank you for this opportunity to be here at this important hearing.

Mr. CONNOLLY. We thank the distinguished majority leader, and also just thank him for his consistent ongoing leadership and support for Metro. It has not been uncritical, but it has been essential, and he has helped educate our colleagues in Congress as to the fact that it isn't just any transit system. It is the national capital transit system serving the capital of the free world. We have certain obligations to make sure that there is a partnership between this body and Metro, and Steny Hoyer has just been a pivotal figure in making sure that happens over the years. Thank you.

Mr. HOYER. Thank you, Mr. Chairman.

Mr. CONNOLLY. The chair now recognizes himself for an opening statement.

Today this subcommittee continues its oversight of WMATA. I say “continues” because this is an issue that Ranking Member Meadows championed when he was chairman of the subcommittee. Mr. Meadows convened hearings on WMATA in the wake of Carol Glover’s tragic death in the L’Enfant Plaza tunnel fire, after the East Falls Church derailment, and amidst crises in system leadership, safety, and customer confidence. Mr. Meadows put the spotlight of this subcommittee on WMATA against the backdrop of seemingly daily track fires and when all the lights were blinking red.

I want to thank Mr. Meadows and my colleagues on the other side of the aisle for their bipartisan concern and commitment to making it better. Together we have been supportive of General Manger Paul Wiedefeld’s reforms to the system, including his efforts to place a premium on safety and to combat a culture of mediocrity by holding bad actors accountable and demanding better service to customers.

Mr. Wiedefeld implemented the safe track blitz on safety improvements, led the effort to secure expanded maintenance hours, terminated track inspectors who falsified track inspection reports, and has increased annual capital investments. Some of these initiatives have not been popular, but these improvements coincide with increases in on-time performance, customer service ratings, and ridership, trends we must strive to continue.

Despite improvements, areas of concern, including a recent train collision, remain. These lingering problems demand continued attention. The newly certified Washington Metrorail Safety Commission was on the scene of a train collision near Farragut West earlier this month. Congress was instrumental in establishing this new safety oversight body, and I was glad to help in leading that effort with Majority Leader Hoyer and others. I believe Barbara Mikulski played a key role in that, the senator, at the time, from Maryland, and, of course, the delegate, our colleague, Eleanor Holmes Norton from Washington, as well.

WMATA is expected to take possession of the 23-mile Silver Line extension of Metro to Washington-Dulles and International Airport in late 2020. The OIG, the Office of Inspector General, however, released two management alerts raising concerns about construction deficiencies on the project, and warning of the extraordinary cost, maintenance, and operational issues that would arise if those concerns were not properly addressed. We cannot allow shoddy construction by cost-cutting contractors to saddle Metro and its ridership with long-term costly maintenance problems. I know we are eager to hear how that is being resolved. That is not WMATA’s problem yet, but it is a problem unaddressed we otherwise inherit.

Finally, WMATA recently underwent immense upheaval on its governing Board. Former Board chairman, Jack Evans, violated the public trust as well as the WMATA Board code of ethics, and has become a walking billboard for the ethically challenged. Mr. Meadows and I, and Mr. Jordan, have acute concerns about the damage done by Mr. Evans and the Board’s mishandling of the ethics complaints. The opacity of the Ethics Committee process and Mr.

Evans' actions to threaten and intimidate WMATA staff, including the general counsel who was investigating his ethical behavior, did not inspire public confidence in the Board. We hope our witnesses can help the subcommittee and the public understand how new ethics reforms address these lapses so that they will not be allowed to recur.

I believe the ranking member and I both appreciate how essential WMATA is to the operation of the Federal Government. In recognition of the special responsibility the Federal Government has to help America's subway, my Republican predecessor and former chairman of this committee, Tom Davis, led the effort to secure dedicated Federal funding for WMATA. It was a Republican idea. And I do appreciate that this year's budget request upholds this bipartisan and longstanding funding commitment. It is not often I find myself praising anything in the Trump budget, but in this one case, I do. They provided full funding for what we call PRIIA.

The Passenger Rail Investment and Improvement Act of 2008 established the successful Federal, state, and local partnership under which the Federal Government provides \$150 million a year in capital funding, which is matched dollar for dollar by the three local compact members, Maryland, D.C., and Virginia. Without continued Federal participation, however, this successful capital funding stream would unravel, leaving a massive shortfall in WMATA's budget and paralyzing this critical transit system.

That is why I and other members of the D.C. area delegation—in fact, all of the other members of the D.C. delegation—introduced the Metro Accountability and Investment Act, or MAIA. The bill would authorize the \$150 million in annual capital funding for 10 more years, contingent on the local jurisdictions bringing in matching dollars. But in addition to that capital funding, the Federal Government would for the first time provide \$50 million a year for WMATA's annual operating costs, \$10 million of which would be provided to the Office of Inspector General for its functions.

This is important because the Federal Government in one way is a free rider. We do not subsidize the operations of Metro. The compact members do. We are, in fact, the only compact member—the Federal Government—that does not pay a subsidy for operations. This would begin a downpayment on the Federal Government actually being a full partner at the table.

The \$200 million in annual capital and operating funding authorized by MAIA would be conditional upon reforms that strengthen WMATA oversight. For example, Metro would be required to provide the inspector general with independent budget, procurement, and hiring authorities, making independent legal advice available to the OIG, and improving transparency of corrective actions. The OIG and any organization has to be pure as the driven snow, and the reforms outlined in MAIA would help ensure that the work of the IG is above reproach and independent of the transit system it oversees.

It would authorize a second tranche of dedicated Federal capital funding subject to certain additional conditions, including safety and reliability certifications and improvements. Additionally, the bill would require local jurisdictions to keep their promises to escalate their contributions to WMATA capital costs. We should expect



the Federal Government to take commensurate steps while WMATA continues to improve system performance.

We cannot afford a death spiral of disinvestment and declining service for a transit system that gets our Federal work force to work every day, and that serves the tens of millions of Americans and non-Americans who come to visit the Nation's capital every year. We must use an incentive approach to invest in this essential transit system and hold the system accountable to providing safer and more reliable service. This subcommittee will continue to provide strict oversight of WMATA, and I want to thank, again, my ranking member, Mr. Meadows, and his stand-in, Mr. Grothman, for their support on a bipartisan basis.

With that, I recognize the member for his opening statement.

Mr. GROTHMAN. First of all, I would like to thank you for holding the hearing. I know we are off to a little bit of a low start here, so I am not going to go through my entire opening statement. I will just say one more time, this is maybe the first time this subcommittee has met since Congressman Cummings passed away, so I give my condolences to the Cummings family. And without objection, I will submit the prepared opening statement to the record.

Mr. GROTHMAN. I am glad that we all agree that you shouldn't, and we look forward to talking about that we shouldn't be using our public position to personally enrich ourselves. We are going to talk about that a little bit today, and I look forward to hearing from the other witnesses. So with that, I yield back.

Mr. CONNOLLY. I thank my friend from Wisconsin, and I thank him for his kind remarks about the loss of our dear friend. He was very much loved on both sides of the aisle, and I know that he would say the work doesn't stop, and you need to continue. Maybe that is the best way we honor the memory of Elijah Cummings.

I see that our colleague from the 10th congressional District of Virginia, Ms. Wexton, has joined us. Thank you, Ms. Wexton. Without objection, the gentlelady is authorized to participate in today's hearing fully.

Hearing none, the chair now calls on the distinguished Congresswoman from the District of Columbia, Ms. Norton, for five minutes for an opening statement.

Ms. NORTON. Thank you very much, Mr. Chairman, and I echo your remarks on Mr. Cummings, who I am used to seeing sitting exactly where you are sitting today.

You and I are in an unusual position because we are chairs equally. We are chairs of subcommittee which equally have jurisdiction over the Washington Metropolitan Transit System. I had been waiting to make sure that the appropriations came through, and I am pleased that the Senate and the House bills, as well as the President's budget, do have that appropriation, which I think speaks volumes to the importance of WMATA. You in your capacity as chair of Government Operations, me in my capacity as chair of the Subcommittee on Highways and Transit, have a special obligation to Metro for the country, for this region, for our respective districts, all of which are particularly dependent on Metro.

Mr. Chairman, I would like to emphasize, because I think it is too seldom done, recent very encouraging developments at Metro. We have at Metro a declining ridership. That is true of these tran-

sit systems across the country, but Metro is, again, attracting riders, and anybody who understands climate change or congestion in this region has got to applaud that. Metro has also implemented an extensive safety and maintenance work plan for which we are very grateful, and now has a very impressive weekday on-time performance of 90 percent. It is in the interest of the Federal Government to do all we can to keep spurring these important developments.

The Washington Metro Safety Commission was also certified this year, allowing the Commission to take on direct oversight of safety at Metro in place of the Federal Government. All those improvements, it seems to me, deserve the applause of this committee. For the chairman's constituents and mine, of course, Metro ties together entire neighborhoods.

But equally important, Metro has created a really irreplaceable transit network on which the Federal Government depends every day every bit as much as our constituents. You have heard the numbers. One-third of the peak commuters are Federal employees. Of course, I say the more the merrier to get traffic off the road. Over half of Metro stations serve Federal facilities, and look how important they are: the Pentagon, the Smithsonian, which is, of course, part of the tourist mecca for the Nation's capital and the region, the Census Bureau. It serves the Internal Revenue Service, and, of course, the U.S. Capitol itself. Neither the Federal Government nor the regional economy would be possible today without Metro. Perhaps there was a time, but no longer.

Congress does have a duty to examine Metro's operations to make sure that our dependency and the dependency of the region and that Nation is well placed. Mr. Chairman, though, we must not forget our ongoing obligation to hold Metro to the highest safety standards. We still mourn the loss of those injured and killed during the Red Line crash of 2009 and the L'Enfant Plaza incident of 2015, even more recently. Seven of the 9 who died in the Red Line crash were D.C. residents. Proper safety protocols and regular maintenance can help reduce the likelihood of such tragedies. In addition to considering operational safety, we must maintain vigilance, and I would be remiss if I did not mention cybersecurity threats and the risk they pose to this system.

I look forward to today's testimony and very much appreciate our witnesses for coming forward, and you, Mr. Chairman, for holding this hearing.

Mr. CONNOLLY. I thank the distinguished Congresswoman from the District of Columbia, and we continue to hope D.C. voting rights and statehood move forward.

Ms. NORTON. Thank you, Mr. Chairman.

Mr. CONNOLLY. Just a paid advertisement there. Now let me introduce our panel. We have, of course, the general manager and chief executive of Metro, Paul Wiedefeld. Welcome, Mr. Wiedefeld. We have the new chair of the Metro Board, an old friend and colleague from the city of Alexandria, Paul Smedberg. We have Geoffrey Cherrington, who is the inspector general of the Washington Metropolitan Area Transit Authority. And finally Dr. David Mayer, who is the chief executive officer of the Washington Metrorail Safety Commission, the very commission a number of us played a role in trying to get established and up and running.

I would ask each of our witnesses to summarize their testimony. You have got five minutes, but you don't need to read to us. We can listen as fast as you can speak. Mr. Wiedefeld.

**STATEMENT OF MR. WIEDEFELD, GENERAL MANAGER AND CHIEF EXECUTIVE OFFICER, WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**

Mr. WIEDEFELD. Good afternoon, Chairs Connolly and Norton, members of the subcommittee, and members of the National Capital Area regional delegation. I am Paul Wiedefeld, general manager and CEO of the Washington Metropolitan Area Transit Authority, commonly referred to as "Metro," and I thank you for the opportunity to testify today at this important oversight hearing of Metro. I also want to thank Chairs Connolly and Norton and the members from the National Capital regional delegation for their leadership in supporting dedicated Federal funding to Metro.

As you know, as has been stated, Metro plays a critical role in the Capital Region, transporting roughly 1 million passengers a day, and as was mentioned, a third of those being Federal employees. Also important to note that if there were an emergency and we needed to evacuate the District, obviously Metro would play a large part in that as well.

Since the last report to the committee, Metro is safer, it's more reliable, and our financial house is in order. In terms of the safety of Metro, since Fiscal Year 2017, track infrastructure incidents, such as speed restrictions or derailments, are down 87 percent. Track electrical fires, insulator and cable fires are down 35 percent, and passenger offloads, one of the most frustrating things for our customers, are down 50 percent. And this summer, we successfully rebuilt crumbling and unsafe platforms at six stations south of Ronald Reagan National Airport, the most complex project we've done since the construction of the system.

In terms of service reliability, reliability of the Metrorail is driven by three factors. It is driven by the power and signaling system, meaning third rail cabling of the switches, and our track infrastructure ties and running rail, and the rail cars themselves. We've implemented the agency's first-ever preventive maintenance program to achieve and maintain a state of good repair focusing on the power and track infrastructure. With regards to rail cars, more than half of our fleet is now comprised of the 7000 series cars that are five times more reliable than the older cars.

By focusing on these areas, service reliability has improved significantly. In 2019, Metrorail's on-time performance reached its highest level in seven years. This increased reliability combined with customer service initiatives has resulted in Metrorail year-over-year ridership gains of nearly 30 percent compared to 2018.

In terms of fiscal management, let me first give the committee some context on the size of the financial commitment to the Metro system and how it's funded. Our current operating budget is just under \$2 billion, funded entirely by the combination of local and state funds from the District of Columbia, Maryland, and Virginia. There are no Federal funds supporting the operating budget. The operating budget is managed very tightly, as we required, to manage the budget to no more than a 3-percent growth in the operating

subsidy from funding partners at the state and local level. This has resulted in management-related reductions totaling \$186 million over the last three years, and is a constant focus on reducing costs and seeking means to increase revenues.

Metro's capital budget for Fiscal Year 2020 is just over \$1.7 billion, with Federal funds accounting for roughly 29 percent of the budget at \$500 million. This Federal funding comes from two sources. Approximately \$350 million comes from Federal formula funds and grants, and \$150 million comes from their PRIIA funding, as the chairman mentioned. It's worth noting, again, that the \$150 million in PRIIA funds is matched dollar for dollar by the state and local funds from the District, Maryland, and Virginia.

Since we last met, Metro's total capital program has grown significantly as a result of state and local governments supporting passage of the dedicated funding for Metro that provides an additional \$500 million dollars annually to meet the state of good repair. To meet these critical safety and maintenance needs, our focus has been on delivering the increased capital program. I am pleased to report that in Fiscal Year 2019, 99 percent of the \$1.5 billion budget was delivered as compared to four years ago when the Authority was investing only 65 percent of what was requested. I'm also pleased to report that we just received another clean audit for Fiscal Year 2019.

In closing, progress at Metro in the areas of safety, service reliability, and fiscal management would never have been possible without the ongoing Federal support and the support of our jurisdictional partners in Virginia, Maryland, and the District of Columbia. So once again, I want to express our thanks for the bipartisan support of PRIIA and thank the Administration for including the funding in the President's budget request for the last two years.

Mr. Chairman, that concludes my remarks.

Mr. CONNOLLY. Thank you. You are a model for us all. You had 50 seconds left. Let's see if our recovering politician can do equally as well. Mr. Smedberg, welcome.

**STATEMENT OF PAUL SMEDBERG, CHAIR, BOARD OF DIRECTORS, WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**

Mr. SMEDBERG. Good afternoon, Chairman Connolly, Congressman Grothman, subcommittee members, and members of the National Capital regional delegation. I am Paul Smedberg, chairman of the Board of WMATA. I appreciate the opportunity to be today to discuss the Board's goals and priorities. I also want to acknowledge and thank the members of the National Capital regional delegation for their unwavering support.

It is truly an honor to have been elected chair of the Metro Board, and as I take on this new role, I am focused on the future, and I would like to highlight my priorities going forward: ethics reform, PRIIA funding, customer-focused improvements, Office of the Inspector General.

First, I would like to address the recent actions of the WMATA Board as a followup to the ethics investigation into former Board chair, Jack Evans. Following the investigation and report to the WMATA Board Ethics Committee, we determined the matter was

resolved and no longer presented an issue under the ethics code as written at that time. But I and my colleagues on the Board recognize that there was room for improvement and greater transparency, and that is why my first priority as Board chair was to lead adoption of revised ethics codes soon after the Board's August recess.

On September 26, 2019, the Board unanimously adopted a revised Board ethics code that strives to ensure greater transparency, accountability, and clarity. Some key changes include reported violations of Board or undisclosed conflicts of interest by a Board member will be referred to the WMATA inspector general for investigation. A written summary report of the investigation must be provided to the full Board. Determination of the Board, whether a violation or not, will be considered in public session, and the Board will vote on a written Board resolution regarding the investigation.

There is no distinction between an actual and apparent conflict of interest, instead one definition requiring all conflicts to be similarly addressed. A conflict of interest arises whenever a Board member's ability to perform his or her duties fairly and objectively would be compromised. The amended annual disclosure form requires additional reporting of, A, clients or vendors of a Board member, Board member's employer, and, B, businesses or persons that a Board member or a household member provide services, such as legal, auditing, consulting, et cetera. This revised ethics code will provide all Metro stakeholders with the assurance that the Metro Board has in place an ethics code that will provide guidance and transparency to current and future Board members.

Second, authorization of Federal dedicated funding. As chairman of the Northern Virginia Transportation Commission, I worked closely with elected officials in Richmond to support the historic legislation providing \$500 million in dedicated funding for WMATA. However, our funding work isn't finished, and there is a lot at stake in terms of safe and reliable service now and in the future, and we need our Federal partners to recommit. As you know, the Federal Government depends on WMATA to get Federal employees to work, and to provide access to Federal agencies, and to support the Federal Government in times of an emergency.

Customer-focused improvements. We will soon begin Metro's Fiscal Year 2021 budget process, which will focus on continuing the work to make strategic investments in our capital program and support improved capital planning. Our policy decisions will focus on continuing the service reliability turnaround we are experiencing, and responsiveness to customers. The Board will consider fair policy that addresses the needs of the agency and maintains affordable fares.

Last, Office of the Inspector General. In 2006, the Washington Metropolitan Area Transit Authority Board of directors established by resolution the Office of Inspector General. This independent office reports to the Board and replaced the Board of Audits and Inspections that reported to the general manager. The inspector general is the Authority's lead for the review of WMATA's operational integrity, prevention and detection of fraud and abuse within the administration. The Board has also paid close, careful attention to the provisions of the PRIIA bill led by Chairman Connolly.

Over the past two years, the new IG and the Board of directors have worked closely and collaboratively to strengthen and ensure the IG is operationally independent. Steady budget increases have been approved annually to facilitate better OIG work, including increased staffing levels for special agents, criminal analysts, and forensic auditors. Exceptions to WMATA policies for the OIG are now permitted and are handled on a case-by-case basis where the OIG can demonstrate a bona fide business reason that would assist the effectiveness of the OIG. An attorney has been hired to provide legal advice to the OIG. This attorney reports directly to the IG, not WMATA's general counsel or management. Separate office space has been created for the OIG staff outside the main headquarters building. The Board's executive committee is responsible for oversight of the OIG's work. The Board will continue to consult with the IG on the resources that he believes are necessary to strengthen the work of that office.

And finally, Chairman Connolly, the Board is also looking forward to providing policy guidance on longer-term issues in a number of areas, including technology advances, responses to climate change, and addressing the new regional mobility paradigm.

Thank you for this opportunity to be with you here today. I will be pleased to answer your questions.

Mr. CONNOLLY. Thank you, Chairman Smedberg.

Mr. Cherrington?

**STATEMENT OF GEOFFREY CHERRINGTON, INSPECTOR GENERAL, WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY**

Mr. CHERRINGTON. Chairman Connolly, Congressman Grothman, and distinguished members of the subcommittee, thank you for inviting me today to discuss the role of the OIG at WMATA. I've submitted a written statement and ask that it be entered into the record.

Mr. CONNOLLY. Without objection.

Mr. CHERRINGTON. Sir?

Mr. CONNOLLY. Without objection.

Mr. CHERRINGTON. Thank you, sir. The WMATA OIG is an independent and objective unit that conducts and supervises audits, program evaluations, and investigations relating to WMATA's activities and detects and prevents fraud and abuse in WMATA activities. It keeps the Board fully and currently informed about deficiencies in WMATA activities along with the necessity for and progress of corrective action.

As you know, the WMATA OIG is not a Federal OIG. We're not covered by the provisions of the Inspector General Act of 1978, as amended. Our authority derives from the WMATA compact and the 2006 resolution by the WMATA Board of directors.

Before my appointment as WMATA inspector general, however, I had over 32 years of law enforcement experience, including a combat tour in the first Gulf War. Twenty-two of those years were in the Federal inspector general community where I held senior executive and investigative positions in the OIGs of the Departments of Defense, State, Agriculture, and the General Services Administration. Since assuming office in April 2017, I have modeled the

WMATA OIG after the Federal inspectors general to the extent possible.

I have been able in practice to operate independently of WMATA management, in most respects thanks to strong support from the current Board of directors, especially Chairman Paul Smedberg, and GM/CEO Paul Wiedefeld. As a result, my office has had some success in pursuing our top priorities of safety, cybersecurity, and procurement improvements in WMATA operations. At the same time, the only statutory provisions for WMATA IG are in the compact. They're very general. They would provide scant protection to IG independence and objectivity if a future Board or senior management were to alter their policies or practices regarding the IG.

My written statement describes in more detail the key challenges facing my office in the area of statutory independence, in particular, regarding our lack of law enforcement authority, lack of procurement, hiring, and other administrative authorities, and lack of budgetary independence. Despite the challenges, we've achieved notable results in Fiscal Year 2019, identifying \$36 million in questioned costs or funds put to better use, issuing 96 contract audit reports, finding \$9-and-a-half million in possible savings, contributing to six criminal proceedings—four indictments, two convictions—and issuing 11 reports of investigation, five management alerts and three management assistance reports. I've coordinated early on with Dr. Mayer and the Safety Commission, and we both have vowed to work together and collaborate on safety issues affecting WMATA.

That concludes my prepared remarks. I'd be happy to answer any questions.

Mr. CONNOLLY. You are a star. Two minutes left. Whatever he wants, make sure he gets it.

[Laughter.]

Mr. CONNOLLY. Dr. Mayer?

**STATEMENT OF DAVID MAYER, Ph.D., CHIEF EXECUTIVE OFFICER, WASHINGTON METRORAIL SAFETY COMMISSION**

Mr. MAYER. Chairman Connolly, Ranking Member Meadows, Congressman Grothman, and members of the subcommittee, first, I want to express our condolences for the loss of Chairman Cummings last week. Second, thank you for having the WMSC before you to testify, and thank you, all of you, who were instrumental in standing up the WMSC. Finally, I want to recognize WMATA for its willingness to work with the new safety oversight framework.

I was managing director of the NTSB during the investigation of the Fort Totten collision. I'm well aware of the complexities of Metrorail and its importance to this region. I'm also a customer and personally depend on Metro. It's as WMSC CEO and with that perspective that I appear before you today.

I wish to briefly highlight some key points. We are the independent state safety oversight agency, or SSOA, for Metrorail. In 2012, Congress bolstered the requirements for transit oversight nationwide, and in 2016, FTA regulatory action triggered a 2019 congressional deadline for each state with a rail transit agency to establish a strengthened SSOA. As the new SSOA framework developed, it became apparent by the 2015 L'Enfant smoke event that

Metrorail faced urgent safety challenges. The investigation found many deficiencies, and the FTA took direct charge of safety oversight.

In 2017, the region took steps to establish an independent SSOA and to respond to the issues raised by L'Enfant. Virginia, Maryland, and D.C. enacted identical legislation establishing the WMSC, which Congress ratified, granting the WMSC significant enforcement and access powers. The jurisdictions appointed commissioners who elected Christopher Hart as chair. I joined as CEO in 2018. In March 2019, the FTA officially certified our oversight program, returning the WMATA's safety oversight to the region. We are fully up and running. The legislation provides extensive authority, which we use to carry out six core functions that I'll briefly touch on.

We require WMATA to conduct thorough investigations of safety incidents. Ultimately, we own the investigations. If the reports meet our standards, our commissioners will adopt them. Otherwise, we require WMATA to resolve any issues. So far that process has worked. We've adopted 17 investigative reports of public meetings, which we've held monthly since March. We inspect tracks, and structures, and rail cars, and have carried out observations on trains and in the rail control center. We've undertaken 57 risk-based inspections since we were certified in March, pointing out deficiencies and verifying fixes.

We conduct safety audits. We expect to present our track audit findings in the coming weeks, and our second audit will focus on protecting track workers. In the months ahead, we'll audit operator and controller performance, traction power, and even elevators and escalators. We oversee corrective action plans, or CAPs. When certified, we integrated 101 CAPs the FTA had been overseeing into our framework. Many predated the FTA's assumption of safety of oversight. Since certification, we've found WMATA has taken acceptable action to warrant closure of 39 CAPs, and based on our own investigations, we're issuing new findings that will necessitate some new CAPs.

Like all our functions, transparency is critical. I'm happy to report that as of today, our document with CAP updates, our CAP tracker, is now on our public website to help the public evaluate progress. We assess emergency preparedness. L'Enfant was a wakeup call that WMATA and its regional partners needed to improve how they handled emergency response procedures, and it appears that WMATA has made significant strides through drills and exercises.

Our last core function is safety certification of major capital projects. That means ensuring WMATA best uses safety engineering practices. This function will be carried on Silver Line Phase 2, where we provide a second set of eyes and will be part of the decision to open the extension. In carrying out other key tasks, we've built a tremendous relationship with WMATA's inspector and have worked with his office on several matters.

I'll close with a mention of a collision that occurred on October 7 at 12:54 a.m. Two eastbound trains that were not carrying passengers collided between Foggy Bottom and Farragut West. This incident highlights how we participate in investigations, our over-



sight of CAPs, and our commitment to transparency. Of course the investigation is ongoing.

We will continue our safety oversight efforts as I've detailed them today, and I look forward to keeping you informed and to your questions. Thank you.

Mr. CONNOLLY. Thank you, Dr. Mayer. Thank you all so much for your testimony. I am going to yield my first five minutes of questioning to the gentleman from Maryland, Mr. Raskin, who has to be out of here by 3 o'clock.

Mr. RASKIN. Mr. Chairman, thank you very much for your kindness in doing that. Thank you all for your testimony. I will just preface my questions by saying I am a huge champion of the Metro. I was growing up here when it was built, and so I went to my first party on the Metro. I went to my first prom on the Metro. Had my first date on the Metro. I am somebody deeply invested in its success, and I want to bring it back to its glory days.

Let me start with this question. It has been three years since Metro cut back to the nighttime hours from midnight to 11:30 on the weekdays and then 3 a.m. to, I think, it is 1 a.m. And I still hear from constituents who are working late, you know, hotels, restaurants in the thriving, you know, nighttime sector that we have now, for whom this is a problem. What is the timetable or schedule for getting back to the earlier nighttime hours, Mr. Wiedefeld?

Mr. WIEDEFELD. Yes. Just to put it in context, that was in place to deal with preventive maintenance that we never did, so that was very important. We are making great progress. We will be preparing our budget next month. We want to get back those hours as quickly as we can, but we cannot do it at the expense of keeping the system safe and keeping to that maintenance schedule that we need to have. So I am hoping to bring certain things to the table in our budget to start to bring back those hours because, again, that is what we want to do as quickly as we can and as quickly as it is safe to do it.

Mr. RASKIN. Good. Mr. Chairman, you will recall that there was an effort at the hearing that Congressman Norton chaired for us on D.C. Statehood to essentially justify the disenfranchisement and nonrepresentation of people in Washington by virtue of alleged ethics violations at WMATA, and potential political corruption by a D.C. councilman. And to my mind, this transparently political argument depends on theories of guilt by association, and collective guilt, and mass punishment that are totally antithetical to our notions of individual responsibility and also democratic representation in government.

Having said that, we have a responsibility to conduct oversight over WMATA, and the chair, Mr. Evans, resigned from the Board after the Board Ethics Committee found that he had knowingly violated the WMATA code of ethics. He apparently lied about his work on behalf of private clients and the subsequent ethics investigation into his self-enrichment. As troubling as his behavior was, we were also focused on the complete breakdown in the transparency and integrity of the Board's own ethics process. So what I would like to understand today is what happened and how that process became so dysfunctional, and how the reforms recently adopted will prevent similar problems from happening again.

Mr. Smedberg, I am going to run through some of the lapses in the ethics process as I understand them and then ask you to explain to the committee how the new reforms address them. First, there was no report or timely statement issued at the end of the investigation to let the public know what had transpired and how the Board planned to address Mr. Evans' actions. How did this happen, and how did the reforms address the problem?

Mr. SMEDBERG. Congressman, the Ethics Committee came to a determination, and we determined that the issue was resolved, and that was allowed under the current code at the time. But myself and other members of the committee realized that that was not probably good for the organization and the Board moving forward, and that we needed—

Mr. RASKIN. And not good for the public.

Mr. SMEDBERG. Right, and the public, that we needed reform, and we needed greater transparency. That is why I pushed for the reforms and had the full support of the Board. As I said in my opening statement, I outlined some of the key things. I think a couple I want to highlight again, first all conflicts will be referred to the IG. The IG will then make a determination whether it was a violation or not. That written summary will be public, will be discussed by the Board and acted on by the Board in public. So that is, you know, direct attempts to address a lot of the concerns that you—

Mr. RASKIN. Got you.

Mr. SMEDBERG [continuing]. and a lot of other people have had.

Mr. RASKIN. Several of the members, including Mr. Evans, made false statements in public about the adjudication of the investigation and its contents. How would your reforms address and prevent a repeat of that?

Mr. SMEDBERG. Again, I think having the IG report out, bring the report to the Board in public and having the Board discuss whether there was a violation or not in that written summary in public, I think, will help address—

Mr. RASKIN. Okay. And finally—I can get one more in here—the subject of the investigation apparently threatened and intimidated staff to influence the outcome of the Ethics Committee process. How would the reforms address something like this from happening?

Mr. SMEDBERG. Well, I think they are, you know, again sending things to the IG for independent review outside of the committee process where staff was involved and helping organize things, I think, is going to go a long way. And, again, reporting out to the Board in public with a written summary, you know, I think, and that is our attempt to address that issue.

Mr. RASKIN. I appreciate that. My time is up. Thank you, Mr. Chairman.

Mr. SMEDBERG. Thank you.

Mr. CONNOLLY. I thank the gentlemen. Mr. Grothman?

Mr. GROTHMAN. Yes, I just have a few questions here. First of all, when you look at the statement, in the last two years, and this is for Mr. Wiedefeld. In the last two years, pension contributions have gone up 21 percent. I would like to ask why the big increase, and what type of pension plan are we giving the employees.

Mr. WIEDEFELD. The pension system that we have, we have two parts of it. One is for represented employees, meaning they are unionized, and non-represented employees. So the represented employees are through a CBA, collective bargaining agreement. That is how that has been established over decades. We negotiate that every so often. There are certain things that we try to get as part of that process, and there are certain things that the representatives—

Mr. GROTHMAN. We only got five minutes. What is the plan? What are the benefits? When is the expected retirement?

Mr. WIEDEFELD. Retirement is they basically get a portion. Like most pension plans, it is based on how many years you work there, a portion of your salary. It is multiplied out. It does allow, for instance, that you can apply overtime toward that number. That is part of the contract. It requires the employee to contribute roughly three percent. That is part of the contract. So those are some of the—

Mr. GROTHMAN. And what is the benefit? What is the benefit?

Mr. WIEDEFELD. It is a salary, in effect, a salary going forward based on, again, there are multipliers—

Mr. GROTHMAN. Yes, I know. We get a benefit here.

Mr. CONNOLLY. Excuse me. In other words, defined benefit.

Mr. GROTHMAN. Compute it. Tell us what it is. When is the expected retirement? What is the average payout for somebody? You know, it shouldn't be that difficult. If I make \$60,000 a year for 30 years there, what is my benefit?

Mr. WIEDEFELD. It would be about, that would be around \$40,000, I believe, but I will get back to you with the exact number on that.

Mr. GROTHMAN. How many years do you have to work to get a full benefit?

Mr. WIEDEFELD. It varies. It depends. I can get you all the details of the pension plan. I don't have all the details—

Mr. GROTHMAN. Okay. Well, why the 21 percent increase? What is the deal here? Why do we have a 21 percent increase in the—

Mr. WIEDEFELD. I am not sure what that is referring to.

Mr. GROTHMAN. It says, "Pension contributions have risen over \$32 million, a 21 percent increase since Fiscal Year 2017." That would be in two years a 21 percent increase in pension contributions. Is that accurate or not?

Mr. WIEDEFELD. Again, I am not sure what you are referring to, but I would have to followup on that.

Mr. GROTHMAN. Well, somebody wrote it here. Okay. Recently, D.C. decriminalized what I think they refer to as fare evasion, which I take it to mean jumping these things. I ride the Metro, but at least somebody puts down here it costs us \$36 million a year. Do you think that is true?

Mr. WIEDEFELD. Our estimates are in that range, yes.

Mr. GROTHMAN. Okay. Could you comment on giving up \$36 million? I always love riding the Metro. It is a blast. But I know some people don't like to ride it or they say "you are riding the Metro." And I suppose that is because they think it is, I don't know, dangerous or something. I think fare jumping sometimes intimidates people or they don't like it. Could you comment on the idea that

we are decriminalizing fare evasion, which apparently causes some people to think that a higher number of people are going to, you know, jump over there and ride the train when they shouldn't? Could that result in less people wanting to ride the cars, and also your \$36 million a year, could you comment on that?

Mr. WIEDEFELD. Yes. The decriminalization we did not support. It is not consistent across the region. Maryland and Virginia all have different ways that they deal with fare evasion. We wanted it consistent for our police and for our passengers, but, you know, the District decided that is what they wanted to do.

Mr. GROTHMAN. Okay. It is too bad, and I am not a Congressman who travels abroad a lot. About 15 years ago I went to Taiwan, and it was such an overwhelmingly law-abiding city, and I hope we try to make our capital as law abiding as possible. It should be kind of the star jewel of the United States. Next question. As far as percent of operating costs paid by fares, could you compare the Washington system to Chicago, say, or some other? We will say Chicago.

Mr. WIEDEFELD. Sure. We are one of the highest. We recover roughly 42, I think it is about 42 percent out of the fare box. I think the average in transit systems is in the 30's, low 30's.

Mr. GROTHMAN. Here it says, and maybe the people that give me this information aren't right. Operating revenues only cover 22 percent of the total budget. Is that accurate or they are making that up when they—

Mr. WIEDEFELD. I don't think that is accurate.

Mr. GROTHMAN. Okay. Okay. Well, there is my time, and thank you giving me an extra 10 seconds.

Mr. CONNOLLY. Absolutely. Thank you, Mr. Grothman. At this time, I will enter into the record on the subject of Metro's pensions an article from the Washington Post by Freddy Kunkle a year ago, last September, September 22, that talks about the pension issues at Metro.

Without objection, so ordered.

Mr. CONNOLLY. The gentlelady from the District of Columbia.

Ms. NORTON. I want to thank my friend from the region, Mr. Connolly, again, for this very important hearing. Again, I want to congratulate you, Mr. Wiedefeld, for the progress that Metro has made under your leadership. That is what I tried to emphasize in my own remarks.

I have a question for Mr. Mayer about cybersecurity. Mr. Mayer, I am not alone among Members of Congress who have expressed concerns about the purchase of Metro cars, about 800 of them, from China. We are concerned it would give an avenue for espionage into our transit system. And many of our security experts, of course, come to work every day to the capital on that transit system. So, well, I guess perhaps Mr. Cherrington is who I should ask this question. Does the purchase of Chinese rail cars pose a security concern to you or to anyone you know of?

Mr. CHERRINGTON. Ms. Norton, it does pose a concern. I can't tell Metro what to buy and where to buy it, but I have raised the red flag on particularly buying these cars from China. I would say the company that sells them undercuts all the competitors in the United States and around the world. I believe they do that for a reason. We issued a management alert regarding this. We believe

that whenever a subway system runs underneath something, particularly as critical as the Nation's capital, the seat of power in the world, and all the targets here, we are concerned that it can be controlled by a third party or outside of the Metro system.

We can't guarantee that it would, but we have raised the alarm bells that it may, and we believe a state-owned agency that is selling it that doesn't have the best track record for cybersecurity certainly could do that. Now, it may never happen, but we have raised the alarm bells. And, yes, if you ask if we are concerned, the OIG is concerned, yes, ma'am.

Ms. NORTON. I appreciate that response. I do believe it is your professional duty to raise those concerns, and I do want you to know that Congress is hearing those concerns. Do you plan to audit or investigate this planned purchase?

Mr. CHERRINGTON. Yes, ma'am. We audit all of the major purchases anyway. We are looking at overhead costs, the contractings that are in the contract. We also made a recommendation to the general manager, which he accepted, to make sure that cybersecurity provisions are in the procurements before they are even let out so that we are protected that way. But, yes, that is something that we are going to be tracking closely, whatever the general manager decides to do.

Ms. NORTON. How about you, Mr. Smedberg? Do you or other Board members have concerns about the purchase of Chinese rail cars for a system here in the Nation's capital?

Mr. SMEDBERG. We had been briefed—

Ms. NORTON. Would you please turn on your mic?

Mr. SMEDBERG. I am sorry, Congresswoman. We had been briefed, but this is an active procurement, and the Board has delegated the authority to the general manager in this regard. You know, we have confidence in he and his senior team who are leading this effort.

Ms. NORTON. Thank you. I am pleased that all of you are alerted to the possible risks posed. Mr. Mayer, I note that there have been a number of corrective actions—101, that is a lot—when you inherited from FTA the safety commission that has been a major concern here in the Congress, and you closed 39. You had worked on 32. But I have got to note the Farragut West train collision on October 7, so recently. Have you prioritized that? You had not gotten to that matter. Have you prioritized this among your remaining corrective action plans?

Mr. MAYER. Our focus has been on assessing each of the corrective actions, ensuring that the deliverables are well understood by both parties, and also working with WMATA to set reasonable timelines for the completion of each of the CAPs.

Ms. NORTON. Well, suppose an accident—I just talked about one—occurs. Does that cause you to change your priorities?

Mr. MAYER. I asked my staff on the day after the accident to take a look at the entire body of CAPs to identify any CAPs in the list that could prevent train-to-train collisions. That work is ongoing, and we will report out on it in a couple of weeks at our next public meeting.

Ms. NORTON. Well, I wish you would get back to us on any priorities you make when there are accidents or incidents on the system as you go about your work. And I thank the gentleman for—

Mr. CONNOLLY. I thank the gentlelady and thank her for her leadership. Is Mr. Sarbanes coming back? In his absence, the chair is happy to call on the gentlelady from Virginia, 10th District, Ms. Wexton. Welcome.

Ms. WEXTON. Thank you, Mr. Chairman. Thank you for yielding and for inviting me to participate in this hearing. I feel like I am back on the Northern Virginia Transportation Commission where I served for five years when I was in the state legislature. I was glad to hear you bring up the dedicated funding for state for good repair and maintenance, which was a long time coming obviously. I was very proud to vote for that as well as the safety commission.

Metro is vital to the success and growth of Northern Virginia and the daily operation of the Federal Government. Silver Line Phase 1 has already given my constituents who live in and around Tysons Corner, McLean, and Reston access to Metro. And once Phase 2 is completed, constituents in my home of Loudoun County will have easy access to the District, and D.C. residents will find it easier than ever to travel to Dulles Airport or job centers in Northern Virginia. But despite this great potential, as we have discussed here today, the Silver Line faces many current and future challenges that need to be addressed in order to ensure that Metro is safe, reliable, built to last, and affordable and accessible to all.

Now, with regard to that affordability, there have been reports of potential fare increases being considered in the near future. Given that WMATA factors mileage into its fare schedule and that those riders who are boarding the system at Wiehle and traveling into D.C. are already paying the maximum fare, Mr. Wiedefeld and Mr. Smedberg, can you tell me, A, if fare increases are being considered, and if they are, what impact do you think that would have on the maximum fare for those folks who are traveling on Phase 2 of Silver Line?

Mr. WIEDEFELD. The Board does have a policy of visiting fare increases every two years. We have not done one for more than period, so obviously every year when we prepare the budget, we look at that. And whether or not we would then also adjust the CAP would be another issue associated with that. Our biggest focus, though, is getting people to use the SmartTrip cards and providing a discount for that even if we were to increase fares because that is really the best way to use the system for us, both operationally and efficiency wise, rather than collecting lots of dollars if everyone, more people get to use the Smart Card. So we tend to give benefits for people that do that. So as we explore our budget for next year, that is one of the things we will be considering so it doesn't penalize people for using the system. The more you use the system, the more of a discount, in effect, that you get.

Ms. WEXTON. Very good. Now, has WMATA considered other revenue sources, such as advertising or new parking passes or things like that as a way to not have to increase fares?

Mr. WIEDEFELD. We do. Under the three-percent subsidy cap, the current budget year we have to come up internally, in effect, with \$37 million. So that is exactly what we are looking at is obviously

more efficiencies and then also ways to generate revenue, non-fare revenue. So it is advertising. Quite a bit there. Potential naming rights, things of that sort. And then just thinking out of the box in total about joint development is obviously another avenue for us as we do that. So all those things are the things that we have in the works, and I believe you will see more of that in the very near future.

Ms. WEXTON. Very good. Thank you.

Mr. SMEDBERG. And, Congresswoman, just what the general manager said. You know, the Board is supportive given the cap, the three-percent cap, you know, looking at innovative ways to bring new revenue in in addition to bringing in new riders. The Silver Line Phase 2 is obviously going to be important to that ultimately, but just continuing the improvements and safety and reliability of the system, the customer experience, bringing riders back in is also part of that formula as well.

Ms. WEXTON. Thank you very much. And, Mr. Cherrington, I want to draw your attention to your two management alerts, one from August 16, 2019, having to do with the results for core testing of concrete panels, and the other from August 19, 2019, having to do with the track ballast at the railyard. In these management alerts, you brought up that you had some recommendations, and that you were recommending that WMATA not accept either the railyard or the concrete panels at the above-ground stations unless and until everything was fixed. What confidence do you have that MWAA and Capital Rail constructors and the other contractors are doing what they are supposed to be doing since that time?

Mr. CHERRINGTON. Congresswoman, we issued the two management alerts to provide to the general manager. He asked us to look at this back in August 2018, to conduct an independent review not only of the concrete but also of any other issues we found. Those were two that we found. We immediately notified the general manager.

Our experts' report should be out within a couple of months, with the final recommendations on what we should or should not do. That means if this spray actually penetrated the concrete and if it can hold, and all subsequent spraying of that maintenance over the years, how that is going to take place, how much it is going to cost, and also if the ballast can be recondition and if it has been safety utilized.

So we hope to have our final report out with the recommendations, like I said, within hopefully less than two months, depending on any unforeseen events.

Ms. WEXTON. Well, thank you. I just would caution WMATA against accepting the project without assurance that it really is built to last, because even if we take some money now and put it an escrow account there is no guarantee that the subcontractors and contractors will be around when we need to take advantage of that.

Mr. CHERRINGTON. We understand completely. Thank you, ma'am.

Ms. WEXTON. Thank you.

Mr. CONNOLLY. The chair heartily agrees with the gentlelady. We must—we can't allow that.

Ms. WEXTON. Thank you.

Mr. CONNOLLY. Thank you for bringing that up.

The gentleman from Maryland, Mr. Sarbanes.

Mr. SARBANES. Yes, thank you, Mr. Chairman, and I want to thank all of you for coming today and giving us this update on the progress that WMATA is making. I think in many respects, at a time when we are seeing these nationwide decreases in the use of public transit, you all managed to flip the script. And I know in some ways that is just about getting back to an earlier baseline. But to be able to do that in the face of these trends, I think, is very commendable.

Mr. Wiedefeld, you had said that for the first eight months of 2019 Metrorail provided 2 million more trips compared to the same period last year, this in spite of the fact that we had a shutdown of the Federal Government and we had a summer shutdown of service south of Reagan National Airport. So that is a very commendable achievement.

One of the phrases, actually, that Elijah Cummings used all the time was that we should be effective and efficient. That was his favorite phrase. Probably in the context of this hearing and some of the testimony we have gotten he would say an ethical, “effective, efficient, and ethical.” I think that WMATA is leaning into all of those attributes as an organization right now.

But Mr. Wiedefeld, speak to both the—my sense, and maybe you can just expand on this, is that the increased favorability, trust, whatever it is that is the best way to describe how people view—how the riders view the system, that the gains you have made there are a combination of real improvements, and if you would like to speak to some of those I encourage you to emphasize that again.

But also, the candor with which you have pursued things, because I think that just the way a dog can smell fear, a commuter can smell when they feel like they are not being leveled with, in terms of safety issues, in terms of how long something is going to take to get done.

And just the mere fact of trying to be transparent, calling it like it is, saying to people, “Well, if we are going to do X it means we are going to have to suffer Y for a certain period of time, but X appears to be something you value so we are going to go do that, and it is going to hurt.” Just that, in and of itself, has helped to improve the image of WMATA. I credit you with a lot of that, because I have seen the work you have done wearing other hats in the past.

But talk, if you would, to that in particular, that idea of being candid, being transparent, being as honest as you possibly can, every single day, with the challenges that are faced. Because we have found it refreshing, in terms of the way you have come and presented, but I imagine that your riders are finding it refreshing as well. It is a tough standard to stick with every single day. So you add a burden to your job description when you invite that but I think it makes a huge difference.

Mr. WIEDEFELD. Thank you, Congressman. One of the biggest things that we did as an agency, literally from the ground up, was that we put safety above service, and we believed it. So what you have seen play out is that we make decisions based on that first,



and to be frank, that is not historically what we were doing, because of the pressures to put service out there, whether it was putting service out there that shouldn't be put out, whether it is putting out hours of service at the expense of maintenance and safety. And I think, unfortunately, we had gotten to a point where we had lost the credibility in the community, and we had to focus on rebuilding that credibility by doing what we said we were going to do.

It is painful. The hours is one example of that. The platform work, where we had to shut down platforms. We do—we are constantly communicating with our customers. We did focus groups when we started the Back to Good initiative, and we took some heat for calling it Back to Good versus Back to Great, or something else. But literally they said to us, “Do not tell us that, because we know what this system was. We lived it for 20, 30 years, where there were no issues. And we have seen it decline. So don't tell us that you are going to get back there because we know you are not going to get there. Get us back to good.” So that terminology literally came from our customers.

So we want to keep that. You know, it is something that we have to constantly remind ourselves that the customers have a certain view and that is what we should be focusing on. It is not my view. It is not necessarily other pressures that we get. But what does the customer really want? They want it safe and they want it reliable, and that is what we continue to focus on.

Mr. SARBANES. Well, if I had a choice between a slow that said “Make WMATA Great Again” or “Wait and Make WMATA Good Again,” I would choose the latter.

I yield back.

Mr. CONNOLLY. I thank the gentleman, and I have got to say, maybe that is a catchy phrase. It is reminiscent of Garrison Keillor's Lake Wobegon days, where the local grocery was called Ralph's Pretty Good Grocery. I don't think we want to settle for that. We will get back to good but we want to get to excellent.

I want to ask a series of rapid-fire questions for the record, and I thank you, Mr. Sarbanes, for joining us today.

Let me begin with maybe the easiest. Mr. Smedberg, what is the position of the Metro Board with respect to the MAIA legislation I described, that now has the unanimous support of the National Capital Region Delegation?

Mr. SMEDBERG. We support the bill 2520.

Mr. CONNOLLY. Excellent answer. Would it make a difference getting the Federal Government—two, among others, but, well, maybe three things new in that bill. One is to power the IG and give him some money out of the operating subsidy we provide. Good thing?

Mr. SMEDBERG. Good thing.

Mr. CONNOLLY. We also provide an additional pot of capital funding, contingent inter alia on safety certification measures. Would that also be a helpful thing, from your point of view, over and above the basic \$150 million PRIIA funding?

Mr. SMEDBERG. That would be a good thing.

Mr. CONNOLLY. Another good thing. And then just the general concept of the Federal Government finally stepping up and pro-

viding some subsidy, operating subsidy for the first time. Any views on that?

Mr. SMEDBERG. That would not only be a good thing, that would be a great thing.

Mr. CONNOLLY. Great thing. Getting from good to great there, Mr. Wiedefeld. Okay.

Well, thank you, because we need to know that we do have Metro—the local support for this bill moving forward, if we are going to make a case. But I personally have long believed, as a local official, the Federal Government is a free rider. It doesn't provide operating subsidies and everyone else has to basically underwrite Federal employees using metro.

Mr. SMEDBERG. And as you know, Mr. Chairman, in Virginia, in particular, the localities are the ones that pick up the lion's share—

Mr. CONNOLLY. Exactly.

Mr. SMEDBERG [continuing]. as you are well aware.

Mr. CONNOLLY. Unlike Maryland.

Mr. SMEDBERG. And having the Federal piece there is vitally important for, so the general manager, his team, can really continue the safety, reliability, and the maintenance issues.

Mr. CONNOLLY. Exactly. Now let me you, Mr. Smedberg, and you, Mr. Cherrington, just some quick questions of Mr. Evans. We can't ignore this subject. It seems to me—and I think to my colleagues on both sides of the aisle, l'affaire Evans, as chairman of the Metro Board, really revealed some weaknesses in internal governance. No checks and balances on ethical behavior, no commitment to transparency, in terms of an investigation in the findings, no clear disciplinary measures in place when an ethical infraction is found.

In this case we had a situation where, from the beginning, the process was flawed, not documented, not carefully recorded and reported. There were lies about what the report did and did not find, and initially he was cleared. There was nothing—not true. There was another member of the Metro Board, also from D.C., who decided his role was to be protector of the gentleman accused of ethical violations. And really, there were no automatic penalties. Ultimately the gentleman under pressure resigned.

But that suggests to me a system that is woefully inadequate, in terms of self-policing, and what goes wrong with that is loss of confidence. We don't need that right now, especially up here, where, you know, Ms. Norton and I and Ms. Wexton and others are trying to build support among our colleagues for why this Metro system is different. It needs the full support of the Federal Government. That incident didn't help anything. It is more than tell me it has gotten better. Specifically, is my delineation of what happened a fair account, Mr. Cherrington, and are you, as the IG, confident that measures are now in place that that couldn't happen again?

Mr. CHERRINGTON. Yes, Mr. Chairman, and, yes, we are confident.

Mr. CONNOLLY. Very good. Thank you very much. Do you want to expand?

Mr. CHERRINGTON. Sir?

Mr. CONNOLLY. Do you want to expand on, well, like what? Why should we be confident?

Mr. CHERRINGTON. Because we believe the OIG can objectively and independently conduct any ethical investigations of Mr. Evans or any in the future, and we can also trace back and look at any policies from the past or in the future.

Mr. CONNOLLY. But that is your office. What about the—wasn't there like an ethics committee, Mr. Smedberg—

Mr. SMEDBERG. Yes.

Mr. CONNOLLY [continuing]. of the board?

Mr. SMEDBERG. Yes, Mr. Chairman.

Mr. CONNOLLY. And it completely fell down on the job, didn't it?

Mr. SMEDBERG. Well, I am not sure we completely fell down on the ground. We did do an expedited review. We had findings. As a committee we came together on consensus on one of the findings. But we did realize, as you have highlighted in some of your comments there, that there were deficiencies in the process, and we admit that and accept that. And the effort over the summer, working with the general counsel and others, we reviewed what other systems do in the ethics area, and we looked for best practices. The reforms that we put together and brought forward to the board and that were ultimately approved we think are going to set a very high standard for us in terms of accountability, transparency.

In addition to what is outlined, the ethics forms that we fill out annually have been changed, are more specific in nature. Getting rid of any definition of actual versus apparent conflict, erasing that, including household members, the definition of household members.

Mr. CONNOLLY. Let me ask you, Mr. Smedberg, is there a provision now so that if there are serious charges like that against a member of the board that member of the board, without prejudice, steps aside pending adjudication of those charges?

Mr. SMEDBERG. Yes. There would be—that person would step aside if he or she would—

Mr. CONNOLLY. Which is not what happened in the Evans case. Correct?

Mr. SMEDBERG. Correct.

Mr. CONNOLLY. All right. Is that new? Is that provision new?

Mr. SMEDBERG. Well, there would be—well, that was already in the code. There was no real specific, as to what happens in that regard. We would certainly be open to—you know, they would—we assume they are going to step aside during any ethics investigation. The current code does not prevent them from participating in other board-related matters, but as it relates to the specific ethics review or violation, or potential violation, that person would step aside, or would recuse themselves.

Mr. CONNOLLY. I guess I want to be reassured that, God forbid, but if be the chairman of the board, for the sake of the organization that chairman steps aside pending adjudication of the issues.

Mr. SMEDBERG. Yes. I mean, we would be open to, you know, exploring that option, in a broader context, not just the review of the ethics committee.

Mr. CONNOLLY. Yes. I highly commend it to you, because yours is not just one audience.

Mr. SMEDBERG. Right.

Mr. CONNOLLY. It just is essential that the person we are dealing with, you know, be above reproach.

Mr. SMEDBERG. Understand.

Mr. CONNOLLY. And let me ask you, Mr. Cherrington, while we are talking about this, you have been the IG since 2017.

Mr. CHERRINGTON. Yes, sir.

Mr. CONNOLLY. Have you seen improvements in WMATA with respect to your office and how you interact with management and the board?

Mr. CHERRINGTON. Well, I have always had good interaction with board and with Mr. Wiedefeld, so as far as personalities and getting along, that has never been a problem. So to say has that improved? I would say it still remains very good.

As far as practice and procedures, policies, of things that we have audited or investigations we have had that followed up on, to my understanding the last 2 1/2 years Metro management has accepted all of the recommendations that we have made. There have been a lot of policy changes based on that. There has been a lot of positive change. So short answer, yes, Mr. Chairman.

Mr. CONNOLLY. Okay. You have adequate resources with which to conduct your work.

Mr. CHERRINGTON. Yes, sir. We do now, because of the relationship we have, but that needs to be institutionalized, in Federal law or otherwise. It needs to be sound in Federal law so that my successors and so the future—so if there a change of board management, change of Metro management, they can't make policy changes.

Mr. CONNOLLY. Well, as you know, in the MAIA bill that the regional delegation unanimously supports, we have designed \$10 million of the \$50 operating subsidy for your office, to address the very point you make.

Mr. CHERRINGTON. Yes, sir, and we appreciate the support.

Mr. CONNOLLY. Okay. Mr. Mayer, a final line of questioning on safety, for the record again. First of all, do you agree that if people are discovered to have falsified safety records, whose job it is to inspect safety, that they are a—they are disqualified from employment at Metro, or ought to be?

Mr. MAYER. I don't want to give a weasel-y answer because obviously Metro has got to be responsible for its own H.R. responsibilities. If employees are properly trained and they know how to do the job and they are willfully disregarding it, then there has to be accountability.

Mr. CONNOLLY. Hm. It sounds bureaucratic. I mean, accountability—like what?

Mr. MAYER. Oh, I would agree with it.

Mr. CONNOLLY. I mean, we have had deaths on the system.

Mr. MAYER. If someone is properly trained and willfully disregards procedures and it leads to something like that, absolutely, they should not be working at Metro.

Mr. CONNOLLY. So you would back Mr. Wiedefeld in seeking disciplinary action against such individuals.

Mr. MAYER. Yes, I would.

Mr. CONNOLLY. Without prejudging.

Mr. MAYER. Yes.

Mr. CONNOLLY. But, I mean, if it is clear—we have the evidence. Mr. Wiedefeld had the intestinal fortitude to try—

Mr. MAYER. Oh, absolutely.

Mr. CONNOLLY [continuing]. to deal with that so that we weed that out and we set a standard that says you can't do that.

Mr. MAYER. Absolutely. I don't mean to appear—

Mr. CONNOLLY. Okay.

Mr. MAYER [continuing]. I—

Mr. CONNOLLY. Because I think the public needs that reassurance.

Mr. MAYER. Absolutely. And I support him on that. Generally speaking, discipline is not something that is in the lane of safety.

Mr. CONNOLLY. Okay. Did you look at the October 7 incident, in which two Metro trains collided?

Mr. MAYER. Yes. My staff and I were onsite during that Monday morning. We have—are working with Metro. The investigation is ongoing. The day after the accident I called for an engineering summit to be held. That was held Thursday of last week. I am very appreciative to the number of WMATA staff that came. We had a very candid discussion about some of the CAPs that exist, some of the engineering approaches, and we are working now to digest that information. And, of course, Metro is investigating the accident under our overall oversight.

Mr. CONNOLLY. There were printed reports that the cause of the accident was human, that it wasn't due to some electrical failure or, you know, signal failure. It actually was a human failure. Can you confirm that?

Mr. MAYER. Well, you know, human factors are a factor in most every accident, at some level. The trains in the Metro system are currently in manual operation, so if a train is going to move it must be under the operator's command. So, yes, I don't want to get into trying to blame a particular operator or a particular action, because I am interested in systemic fixes and systemic solutions.

But, yes, human factors are very active in the investigation.

Mr. CONNOLLY. Well, let me just say, Dr. Mayer, in a system that is trying to recover ridership, and that has lost a lot of ridership because of loss of confidence, in safety, No. 1, reliability, No. 2, I just think—I would commend to you, speaking a little bit more forthrightly and directly, I don't know that the public would understand your last answer. But the public needs to, and we need to either tell them, "You know, we can't give you a good answer," or give them a reassuring answer. But it has got to be forthright so that people know the system is or is not safe.

I don't want to think I take my life in my hands every time I take a Metro ride, and we have got some—we have had deaths in the system.

Mr. MAYER. Absolutely.

Mr. CONNOLLY. This is not a theoretical question.

Mr. MAYER. We share your value of transparency. We will be transparent.

Mr. CONNOLLY. Well, I would urge you to speak transparently.

Mr. MAYER. I will do my very best, sir.

Mr. CONNOLLY. Thank you, because I think the public is counting on you, and we are counting on you.

Mr. MAYER. Your words mean a great deal and we will take them to heart.

Mr. CONNOLLY. Okay. I see my good friend from Maryland, Mr. Trone, has arrived, and the chair now recognizes Mr. Trone for five minutes of questioning.

Mr. TRONE. Thank you, Mr. Chairman. Good afternoon. One hundred seventy-four million riders. Wow. I mean, it is local riders but it is also tourists. I mean, you guys are the face of our Nation's Capital, and it is really important that it is not just the stations and the rail cars, but the real face is the team, the people—the workers, the management, et cetera.

So there have been a number of issues regarding that face, that faces our customer-facing area. So, Mr. Wiedefeld, what steps have you done to improve service? Let's talk about that a while.

Mr. WIEDEFELD. In terms of service or—

Mr. TRONE. Customer service.

Mr. WIEDEFELD [continuing]. customer service. Yes. First and foremost, I think we have to recognize what our employees—they do a tremendous job, the vast majority of them, on customer service, to the point where they literally save people's lives. They put themselves in danger to do that. That happens on a regular basis, and just recently it happened several times in the last month, or the last two months. So I have to commend our workers, because they do that every day.

When we don't have workers that do not perform to that we basically direct them, this is the way—what is expected of you, and if not then we go down a path that they do not belong with us. They have chosen not to bind to our culture of customer service and that this probably isn't the place for them. So we continue to do that.

We are working very closely—as you can imagine, we have very work force, from a representative work force. We are working very closely with leadership in the union area to work through all types of issues. One of the biggest issues that our bus operators have is just some of the issues they deal with, day to day, in some of the communities they serve, how they are treated, and get them to basically not take the bait. Right? They are not there to do that. They are there to serve the community. And things of that sort. We reach out to the community itself, to have them respect our operators, particular the face-to-face instances.

So there are a number of things like that. But, you know, they are professionals, and we want to treat them like professionals, but then we expect them to act like professionals and perform like professionals. So it is a two-way street to get better customer service.

Mr. TRONE. So how many total workers do you have in the system, full-time equivalents?

Mr. WIEDEFELD. 12,000.

Mr. TRONE. And in the last 12 months, how many of those were terminated for customer service issues?

Mr. WIEDEFELD. I don't know specifically for customer service, but we have certain rules that they break them. It averages around 3 percent, in that range, if I recall.

Mr. TRONE. Three percent for termination, for—

Mr. WIEDEFELD. For termination, on an ongoing basis, for things that occur.

Mr. TRONE. How many different mistakes do they have to make before they are actually terminated?

Mr. WIEDEFELD. It varies. There are certain things we call cardinal rules. If you break them, that is it. You are done. So we have a series of those. But we obviously have a process we have to go through, but if you break a cardinal rule that is something that immediately occurs.

Mr. TRONE. So that speaks to the standards. What are some of the other—what are some of the key standards that you have, these cardinal rules?

Mr. WIEDEFELD. You cannot lie to us, for instance, when we have an investigation. We need to know the truth right away, and that is one of our major cardinal rules. Obviously you can't use a phone. You can't obviously come in—you know, you can't do certain things, obviously, with alcohol. All those types of things are immediate things. There are certain things that you just cannot do that if they are—they are primarily safety related. Anything that puts yourself and/or other employees or customers at danger is immediate.

Mr. TRONE. Is there anything that is purely service related, how we talk and face our customer and deal with our customer—

Mr. WIEDEFELD. Not an immediate—

Mr. TRONE [continuing]. with respect and dignity?

Mr. WIEDEFELD. Not an immediate firing for something like that, but basically you do, in effect, collect points for something like that, and that would be something we would deal with as well.

Mr. TRONE. Okay. GAO reported, in September 2018, that WMATA implemented two employee performance management systems, but these systems lack key elements of effectively design systems, and that WMATA has failed to implement comprehensive policies and procedures for its performance management system. And the example was that GAO reviewed 50 performance evaluations, and 20 percent—that is a pretty big number—20 percent included scoring errors where the rating was completely inconsistent with the supporting review.

GAO reported three recommendations and all of them are still open. Where are we at there?

Mr. WIEDEFELD. We have automated that entire process. We basically put in that any salary increase that someone would be eligible for is dependent upon basically submitting that performance plan, that basically is monitored on a regular basis throughout the year, and then that becomes, basically, the benchmark upon any salary adjustment that you might have. So it was both automated and made real in terms of salary adjustments.

Mr. TRONE. What I worry about is that ensuring that the performance management actually is not just simply a check-the-box type thing, and that the Metrorail employees get legitimate reviews and document success and deficiencies. You know, I come out of the business world and I had like 7,000 team member in my company. What is the most important day for any team member is the day of your annual review. And you should be celebrated to talk about the things that are excellent, that you have done, and lots of attaboys, but we also have to be just honest, not critical but honest about where we had some—we could do better. But a check-the-box

destroys the entire system. And then there is no possibility for the organization to rise in customer service.

Mr. WIEDEFELD. I agree, and that is why we changed it, the things that we put in place.

One of the things we have done is historically, in a lot of government jobs, everyone gets the same sort of raise, the reality is. We changed that. Basically, we give each manager a pool of dollars, and basically that pool then is—so if you have someone who is here, here, and here, you have to choose. So if someone needs work, they need to get to work, their salary is going to reflect that, their adjustment. If someone is in the middle, that is fine. But to get at a higher end you have to show that.

So again, it is just not a blanket, everyone gets two percent or something like that. We have changed that way of thinking, again, to drive home what is it that your goals are for the year and are you achieving them? That is going to drive what you get, in terms of a salary adjustment.

Mr. TRONE. So what is the average salary adjustment, percentage-wise, with that system?

Mr. CONNOLLY. You may answer the question, but the gentleman's time has expired.

Mr. WIEDEFELD. About 2 1/2 percent, in that range.

Mr. TRONE. Thank you.

Mr. CONNOLLY. Would the gentleman yield for a question?

Mr. TRONE. Yes.

Mr. CONNOLLY. You come from a business background.

Mr. TRONE. Yes, sir.

Mr. CONNOLLY. How important is customer service to the success of the enterprise?

Mr. TRONE. It is everything. I mean, we measure our customer service in my company. We have 200-and-some stores. We literally measure it every single month, and that helps drive the team members' bonus systems. So the store management team, it is not just EBITDA but it is how we take care of the customer. That is how we live and die. You know, price—anybody can compete on price. You can compete on selection. But it is customer service that is the key.

Mr. CONNOLLY. In retail business, my understand is something like this, that the average happy customer tells six people about that experience, positive experience, but the average unhappy customer tells like 20.

Mr. TRONE. They tell everybody.

Mr. CONNOLLY. Yes.

Mr. TRONE. Sure.

Mr. CONNOLLY. So, obviously, the name of the game is to have a lot more happy customers, because it is harder to buildup that goodwill, and the more you have unhappy customers, the more by word-of-mouth, the enterprise suffers, people don't want to use it.

Mr. TRONE. We use something called an NPS, a Net Promoter Score, and it is how much your customer is willing to promote your business. So we will rank ourselves with, you know, Trader Joe's, and Walmart will be at the bottom. And someone like Trader Joe's will be at the top.



Mr. CONNOLLY. So I couldn't agree more with my friend, and I know Mr. Wiedefeld knows, I have talked about it, and I have talked about what had crept up as becoming a culture of mediocrity, and with respect to customer services, sometimes indifference. And not everybody. Some people are very dedicated to their mission. They wake up every morning and whistle while they work. But not enough of them.

I think it has a lot to do with the enterprise. We are dealing with fundamentals like safety, but if you want to bring back ridership and rebuild confidence, I have got to know that I am dealing with a friendly work force that cares about me as a passenger, and, by the way, is trained in safety procedures so that when something goes wrong, the conductor or somebody on that train knows what to do, besides telling people, "I don't know what to do." And all too often, in safety incidents, frankly, the feedback we get from citizens or riders is that some of the Metro personnel were of no help at all, and we can't have that either. They have got to see themselves as a resource in the event of something emergent.

So I thank my friend for bringing it up, because I think we have got to focus on that as something that is key to revitalizing and optimizing the comeback we are seeing. There are a lot of hopeful signs, not least because, you know, management has paid attention. But there is a long way to go in the area of customer service. I thank my friend for pointing it out.

With that I—oh, I ask unanimous consent that Mr. Hoyer's, the Majority Leader, full statement be entered into the hearing record. Without objection, so ordered.

Mr. CONNOLLY. I want to thank our witnesses for their time today. Without objection, all members will have five legislative days within which to submit additional written questions, if they choose, for the witnesses, to go through the chair, which will be forwarded to the witnesses for their response. And I would ask all of our witnesses in the event that you get such questions that you respond as expeditiously as you possibly can.

With that we are—what?

Without objection, Mr. Trone has been recognized to participate in this hearing, after the fact. So ordered.

We are adjourned.

[Whereupon, at 3:42 p.m., the subcommittee was adjourned.]

