

COMMITTEE ON OVERSIGHT AND REFORM  
SUBCOMMITTEE ON GOVERNMENT OPERATIONS  
U.S. HOUSE OF REPRESENTATIVES

February 9, 2022, 9:00 A.M.

“WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY’S (METRO)  
SERVICE, SAFETY, AND FUTURE”

TESTIMONY OF GEOFFREY A. CHERRINGTON  
INSPECTOR GENERAL  
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Chairman Connolly, Ranking Member Hice, and distinguished Members of the Subcommittee:

Thank you for inviting me to appear before you today in connection with this important subject.

Thank you also, Mr. Chairman, for the tireless support you and your staff have provided to the mission of the Office of Inspector General at the Washington Metropolitan Area Transit Authority (WMATA). Your efforts, supported by many other members whom I also acknowledge and thank, recently resulted in the passage of the Infrastructure Investment and Jobs Act of 2021. The Act requires WMATA to adopt important reforms that will strengthen the effectiveness and independence of the OIG.

In your invitation you explained that the Subcommittee will evaluate the funding, operations, governance, and oversight of WMATA. Today I will focus on the role of WMATA’s Office of Inspector General in providing oversight of WMATA activities. I will also discuss some of our recent work stemming from the October 2021 Blue Line derailment.

**Mission and Authorities of OIG**

WMATA, an interstate compact agency, occupies a unique and sensitive place among U.S. transit systems. It is responsible for providing multistate transit service to virtually all Federal agencies and activities throughout the National Capital Region. WMATA carried a significant portion of the Federal workforce, as well as the private sector, to and from work every working day before the COVID pandemic. WMATA receives substantial Federal funding for operating and capital costs, and it is itself a major component in the critical infrastructure of the Nation’s Capital.

According to the Compact, WMATA is a government agency and instrumentality of each signatory (Virginia, Maryland, and DC). WMATA receives appropriated funds from all three signatories, and from the Congress. As a government agency WMATA depends heavily on these public funds. In a typical fiscal year, WMATA receives substantially more than half its operating and capital funds from Federal and state appropriations.

Obviously, effective oversight of WMATA's activities and its stewardship of public funds is crucial. OIG is the primary oversight organization within WMATA's internal structure.

Under the Compact, the Inspector General is an officer of WMATA and reports to its Board of Directors. The IG heads OIG, which, according to Section 9(d) of the Compact, is an independent and objective unit of WMATA with four distinct areas of responsibility:

- conducting and supervising audits, program evaluations, and investigations relating to WMATA activities;
- promoting economy, efficiency, and effectiveness in WMATA activities;
- detecting and preventing fraud and abuse in WMATA activities; and
- keeping the Board fully and currently informed about deficiencies in WMATA activities as well as the necessity for and progress of corrective action.

Originally the Compact did not provide for a WMATA IG. WMATA's first IG was appointed in 2007 as the result of a resolution passed by the Board of Directors in 2006 creating an inspector general and an office of inspector general. The resolution is still in effect. Notably, the resolution emphasizes that:

WMATA, its customers, its funding partners, signatories and oversight agencies would all benefit if WMATA had an Office of Inspector General modeled on the federal Offices of Inspector General to enhance the Authority's goals of accountability and transparency....

Since assuming office in April 2017 I have attempted to model the work of the WMATA OIG after the Federal inspectors general to the extent possible, consistent with the intent of the Board's 2006 resolution.

### **Recent Reforms to Strengthen OIG Independence**

In a significant move to strengthen OIG independence, Congress passed and the President signed into law the Infrastructure Investment and Jobs Act of 2021 on November 15, 2021. As a condition of funding for WMATA, Section 30019(c) of the Act requires the Board of Directors to adopt specific reforms to the IG's authorities. These include:

- greater independence in the annual budget request and approval process;
- improved procurement authority;
- greater independence in selecting and appointing OIG officers and employees;

- assurance that the IG obtains legal advice from a counsel reporting directly to the IG; and
- specified OIG reporting requirements, and measures to assure the public dissemination of OIG reports.

On December 9, 2021, the Board of Directors passed a resolution adopting, and directing staff to implement, the reforms set out in the Act. We are now working with WMATA management staff to take specific steps needed to effectuate the intent of the Act. I appreciate the Board's support in recognizing the importance of OIG independence and objectivity.

### **Recent Additions to OIG Oversight Responsibilities**

The Infrastructure Investment and Jobs Act of 2021 also calls for certain new reports by OIG, in addition to OIG's general oversight responsibilities under the Compact.

As a condition to WMATA's receipt of funding authorized by the Act, the Board of Directors must by resolution direct OIG to submit certain reports not later than two years and five years after the date of enactment of the Act (November 15, 2021). The Board has done so, in its resolution mentioned above. These reports must:

- describe WMATA's implementation of, and compliance with, reforms required by certain Virginia, Maryland, and District of Columbia laws on the provision of state funds to WMATA, including identifying any challenges to compliance or implementation;
- assess WMATA's effectiveness in using those funds to address major capital improvement projects;
- discuss WMATA's compliance with strategic plan deadlines; and
- make recommendations to WMATA to improve implementation.

As an additional condition to the receipt of funds under the Act, the WMATA General Manager must certify to the Secretary of Transportation that WMATA has implemented performance measures, and certain policies and procedures for the capital planning process and transit asset management planning.

OIG is aligning its audit and special project plans to include these additional OIG reporting requirements, as well as to monitor and report on WMATA's implementation of the required policies and procedures.

### **Ongoing OIG Work Relating to the October 2021 Blue Line Derailment**

Mr. Chairman, as you know, WMATA's Blue Line suffered a serious derailment on October 12, 2021. After the derailment, it was discovered that some wheels had moved outward from their mounted position on the axle on several railcars.

On November 5, 2021, you sent me a letter requesting my office to review the circumstances of WMATA's apparent failure to report a history of defective wheelsets on the Kawasaki 7000-series rail cars to the Washington Metrorail Safety Commission (WMSC).

You noted that, despite bi-weekly meetings between WMSC and WMATA's Chief Mechanical Office (CMO), the wheelset defects were not reported as safety issues. You also expressed concern that this non-reporting may reflect a consistent pattern of resistance within WMATA to providing WMSC the information it needs for effective safety oversight.

Within days after the October 12 derailment, OIG initiated an examination into various issues surrounding the derailment, including the issues raised in your letter. Our work on these matters continues. We are coordinating our effort with the Department of Transportation Inspector General, the National Transportation Safety Board, and the WMSC.

While we are not yet able to issue our final conclusions and recommendations, I can report certain preliminary findings. Based on work done to date:

1. OIG has found no evidence so far that WMATA intentionally withheld any information from WMSC regarding the loose wheel conditions affecting 7000-series rail cars.
2. Nevertheless, increased frequency of back-to-back failures year over year should have raised concerns beyond the CMO.
3. WMATA managed wheelset defects as warranty claims, not as safety hazards or safety concerns.
4. WMATA's warranty processes were disconnected from safety certification processes.
5. Kawasaki did not provide failure analysis reports upon learning of failures in the wheelsets; OIG is still examining the reasons for this.
6. Working relationships and communications between WMATA and WMSC, defined in the program standards, need improvement.
7. The Federal Transit Administration Office of Safety's oversight role in monitoring WMATA and WMSC safety programs will be even more critical in improving collaboration between the two agencies and the effectiveness of their safety efforts.
8. WMATA's safety practices are undergoing major changes providing opportunities to improve safety culture at the agency.

My office will be happy to provide the Subcommittee with a final report upon completion of our work.

### **Structure of OIG**

OIG is made up of two principal offices: Investigations and Special Projects (OI & SP), and Audits (OA).

**OI & SP** conducts criminal, civil, and administrative investigations of fraud, waste, and abuse related to WMATA programs and operations. OIG investigations can lead to criminal prosecution, civil penalties, disciplinary action, and administrative action. OI & SP manages the OIG Hotline, including in-take of complaints and determining the appropriate handling of those complaints. Complaints may be investigated by OI & SP or referred to management, to OA for audit consideration, or to another agency, as appropriate. This office also pursues proactive investigations through data analysis, recruiting confidential informants, and mining financial information for fraud detection.

**OI & SP** also investigates whistleblower retaliation cases. Whistleblower retaliation reports are submitted to the WMATA Whistleblower Panel for review and determination. OIG reports information to the WMATA Board on investigations and proceedings, including trends and outcomes; Whistleblower Panel actions; employee and supervisor training; and regulatory proceedings or litigation relating to any protected activity or prohibited personnel practices.

**OI & SP** also conducts management and programmatic inspections, evaluations, and special projects. These projects provide insight into issues of concern to WMATA and other key stakeholders. In addition, OI & SP conducts preliminary special assessments that address concerns, in an expedited manner, related to WMATA's operations. These expedited assessments alert WMATA management to matters that may involve either safety issues or non-safety situations that may help WMATA curtail or avoid loss of assets and/or resources.

During FY 2021, OI & SP contributed to one criminal indictment and two convictions. In addition, OI & SP issued 14 reports of investigation, one management alert, and three management assistance reports. OIG received 253 complaints during that time.

**OA** is comprised of two teams: the financial and contract audit team, and the information technology and administration audit team. OIG audits independently assess WMATA programs and operations, helping to reduce waste, abuse, and mismanagement and promote economy and efficiency. OIG also oversees audit work done by outside audit firms on behalf of OIG.

Each July, OIG issues an Annual Audit Plan that summarizes the audits planned for the coming fiscal year. OIG seeks management input from the GM/CEO and his staff as a part of the planning phase. Unanticipated high-priority issues may arise that generate audits not listed in the Annual Audit Plan.

During FY 2021, OA issued five performance and financial audit reports that identified \$62.9 million in questioned costs or funds put to better use. In addition, OA issued 43 contract audit

reports that identified \$9.1 million in possible savings. OA also conducted 2 Buy America audits reviewing WMATA procurements for compliance with Buy America laws and regulations.

### **OIG Budget, Staff, and Return on Investment**

The OIG FY 2022 budget is \$10.3 million, representing a 1.4% decrease from FY 2021. OIG voluntarily took this reduction in light of WMATA's reduced revenues resulting from the COVID pandemic. OIG's FY 2022 budget is .28% of WMATA's \$3.69 billion in funding.

OIG's staff of 40 is .35% of WMATA's 11,530 positions.

In FY 2021 OIG identified \$72 million in possible savings for every dollar spent on OIG operations, for a return on investment of about seven to one.

For FY 2017 through FY 2021, OIG reported a monetary impact of almost \$132 million.

Thank you again for the opportunity to testify today.