

TESTIMONY OF
WILLIAM W. MILLAR, PRESIDENT
AMERICAN PUBLIC TRANSPORTATION ASSOCIATION
BEFORE THE
HOUSE COMMITTEE ON HOMELAND SECURITY
ON THE
RAIL AND PUBLIC TRANSPORTATION SECURITY ACT OF 2007

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SUBMITTED BY

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

Mr. Chairman, thank you for this opportunity to provide testimony to the Committee on the Rail and Public Transportation Security Act of 2007. We appreciate your making the security of the tens of millions of Americans who use public transportation an important priority of this Committee, and we look forward to working with you on this issue. We thank you for your leadership on transit security.

ABOUT APTA

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

OVERVIEW

Mr. Chairman, public transportation is one of the nation's critical infrastructures. We cannot overemphasize the critical importance of the service we provide in communities throughout the country. Americans take about 10 billion transit trips each year. People use public transportation vehicles over 34 million times each weekday. This is more than eighteen times the number of daily domestic boardings on the nation's airlines.

Safety and security are the top priority of the public transportation industry. The Government Accountability Office (GAO) released a report several years ago which said "about one-third of terrorist attacks worldwide target transportation systems, and transit systems are the mode most commonly attacked." Transit agencies had already taken many steps to improve security prior to the September 11, 2001 terrorist attacks and have significantly increased efforts since that date. Since 9/11, public transit agencies in the United States have spent over \$2.5 billion on security and emergency preparedness programs, and technology to support those programs, largely from their own budgets with only minimal federal funding.

Since 9/11, the federal government has spent over \$24 billion on aviation security while has only allocated \$549 million for transit security. Last year's attacks in Mumbai and the previous attacks in London and Madrid further highlight the need to strengthen security on public transit agencies in the U.S. and to do so without delay. We need to do what we can to prevent the kind of attacks that caused more than 400 deaths and nearly 3,000 injuries on rail systems in Mumbai, London and Madrid.

We urge Congress to act decisively. While transit agencies are doing their part, we need the federal government to be a full partner in the fight against terrorism. Terrorist attacks against U.S. citizens are clearly a federal responsibility and the federal government needs to increase its support for transit security improvements. In light of documented needs, we urge Congress to increase federal support for transit security grants to assist transit agencies in addressing the \$6 billion in identified security needs. We ask that Congress provide no less than \$545 million in the Fiscal Year (FY) 2008 Homeland Security Appropriations bill for transit security. Funding at that level annually would allow for significant security improvements in the nation's transit agencies over a 10-year

period. Federal funding for additional security needs should provide for both hard and soft costs as described below and be separate from investments in the federal transit capital program.

We also urge Congress to provide \$500,000 to the Department of Homeland Security (DHS) for grant funding to the APTA security standards program, under which APTA is working with its federal partners to develop transit security standards. Finally, we urge Congress to provide \$600,000 annually to maintain the Public Transit Information Sharing Analysis Center (ISAC) which provides for the sharing of security information between transit agencies and DHS.

To improve the distribution of funds under the existing transit security programs, we recommend that the existing process for distributing DHS grants be modified so that grants are made directly to transit agencies, rather than through State Administrating Agencies (SAA). We believe direct funding to transit agencies would be quicker and cheaper. The current process and grant approval procedures have created significant barriers and time delays in getting funds into the hands of transit agencies for security improvements. We believe that DHS should work with Federal Transit Administration (FTA) on the distribution of funds since FTA understands transit and already effectively administers a much larger capital grant program to transit agencies.

As transit security is part of the larger war on terrorism, we urge Congress to continue providing transit security grants with no state or local match requirement. A local or state match requirement would have detrimental consequences by making security improvements contingent on a community's ability to raise local funding. A local match requires the approval of a local governing body. Approval of such grants in an open, public forum, where specific project information is discussed is simply inappropriate for security sensitive projects. We should not make such information available to potential terrorists.

BACKGROUND

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

In FY 2003, \$65 million in federal funds were allocated by DHS for 20 transit agencies. In FY 2004, \$50 million was allocated by DHS for 30 transit agencies. In FY 2005, Congress specifically appropriated \$150 million for transit, passenger and freight rail security. Out of the \$150 million, transit received \$135 million. In FY 2006, Congress appropriated \$150 million. Out of the \$150 million, transit received \$136 million. In FY 2007, Congress appropriated \$175 million. Out of \$175 million, transit is slated to receive \$163 million. We appreciate these efforts, but more needs to be done.

Transit agencies have significant and specific transit security needs. Based on APTA's 2003 Infrastructure Database survey, over 2,000 rail stations have no security cameras. According to our 2005 Transit Vehicle Database, 53,000 buses, over 5,000 commuter rail cars, and over 10,000 heavy rail cars have no security cameras. Less than one-half of all buses have automatic vehicle locator systems (AVLs) that allow dispatchers to know the location of the bus if an emergency occurs. Nearly seventy-five percent of demand response vehicles lack these AVLs. Furthermore, no transit agency has a permanent biological detection system. In addition, only two transit agencies have a

permanent chemical detection system. A more robust partnership with the federal government would help to better address many of these specific needs.

We are disappointed that the Administration proposed only \$175 million for transit, passenger and freight rail security in the FY 2008 DHS budget proposal. Regrettably, the Administration failed to make a significant funding proposal to enhance the security of the tens of millions of Americans who use transit. Instead, the Administration chose to freeze security funding for transit, passenger rail, and freight rail security at the level in FY 2007. This funding level falls well short of the funds needed to ensure the safety of Americans who take public transportation. We are also disappointed that the Administration failed to propose funding for transit security standards or the Public Transit ISAC. Both of these programs could significantly enhance transit security for a minimal cost.

APTA is a Standards Development Organization (SDO) for the public transportation industry. We are now applying our growing expertise in standards development to transit industry safety and security, best practices, guidelines and standards. We have already initiated our efforts for security standards development and have engaged our federal partners from both the DHS and DOT in support of this initiative. Unfortunately, DHS has not agreed to provide funding to APTA for this effort. We respectfully urge Congress to provide \$500,000 to the DHS so that it can provide that amount in grant funding to the APTA security standards program. Our efforts in standards development for commuter rail, rail transit and bus transit operations have been significant and our status as a SDO is acknowledged by both the FTA and the Federal Railroad Administration (FRA). The FTA and the Transportation Research Board have supported our standards initiatives through the provision of grants while our members have dedicated a portion of their APTA dues for standards development.

We also would like to work with Congress and the Department of Homeland Security's Directorate of Science and Technology to take a leadership role in advancing research and technology development to enhance security and emergency preparedness for public transportation.

SECURITY GRANT PROGRAM

The DHS's Office of Grants and Training (G&T) is responsible for the distribution of the transit security grant program. G&T should be commended for reaching out to the transit industry in numerous listening sessions on our concerns. Staff from G&T have attended APTA conferences and participated in panel discussions. G&T staff has conducted various conferences around the country to explain the details of the transit security grant program. We continue to work with G&T on streamlining and improving the grant program but are frustrated with the results thus far.

Since the creation of the DHS, four separate offices have been responsible for the distribution of transit security grants. Funds were originally distributed by the Office for Domestic Preparedness (ODP). Then it became known as the Office of State and Local Government Coordination and Preparedness (SLGCP). Now it is known as the Office of Grants and Training (G&T). In addition, the Transportation Security Administration (TSA) is responsible for establishing policy for the program and must now coordinate with G&T.

Along with the organizational changes, each new office has changed the distribution process for the transit security grants. In FY 2003 under ODP, grants went directly to the transit authorities. In FY 2004 under SLGCP, grants went to the State Administrating Agencies (SAAs), which then

distributed grants to the transit systems. In FY 2005 under SLGCP, grants went through the SAAs, which then distributed grants to eligible transit systems on a regional basis in coordination with the urban area. Eligible transit systems were then required to work with the SAAs, the urban area, and the other eligible transit systems in their region to come up with a regional transit security plan on how to spend the federal funding before the transit system could be awarded the grant. This is currently the process.

The transit systems that have been allocated DHS funds are accustomed to receiving federal transit funding directly to designated recipients from the FTA under authorizing law. We believe that DHS should work with the FTA in distributing grants to take advantage of FTA's current familiarity with transit agencies and its own grant making process. While we believe Congress should continue to make federal transit security grants available through the DHS, the FTA model has been in place for years and works well in distributing funds quickly to transit systems. In contrast, DHS's current process and conditions have created significant barriers and time delays in getting funds into the hands of transit agencies where they can be used to protect riders. We urge Congress to get transit security grants directly to the transit authorities in a way that takes advantage of FTA's experience and effective delivery system.

In that regard, we note that Section 3028, Subsection (c) of Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users, SAFETEA-LU (P.L. 109-59) requires the Secretary of Transportation and the Secretary of the Department of Homeland Security to “issue jointly final regulations to establish the characteristics of and requirements for public transportation security grants, including funding priorities, eligible activities, methods for awarding grants, and limitations on administrative expenses.” We believe this rulemaking could be used to address our concerns and we ask the Committee to direct that it do so.

INFORMATION SHARING

Since the terrorist attacks of September 11, 2001, public transit agencies across the country have worked diligently to strengthen their security plans and procedures. They have also been very active in training personnel and conducting drills to test their capacity to respond to emergencies. Also, to the extent possible within their respective budgets, transit agencies have been incrementally hardening their facilities through the introduction of technologies such as surveillance equipment, access control and intrusion detection systems. While transit agencies have been diligent, they have been unable to fully implement programs with current levels of assistance from the federal government.

A vital component of ensuring public transit's ability to prepare and respond to critical events is timely receipt of security intelligence in the form of threats, warnings, advisories and access to informational resources. Accordingly, in 2003, the American Public Transportation Association, supported by Presidential Decision Directive #63, established an ISAC for public transit agencies throughout the United States. A grant in the amount of \$1.2 million was awarded to APTA by the Federal Transit Administration to establish and operate a very successful Public Transit ISAC that operated 24 hours a day, 7 days a week, and gathered information from various sources, including DHS. The ISAC also passed information on to transit agencies following a careful analysis of that information. However, given that the Federal Transit Administration was subsequently unable to access security funds, and given the decision of DHS to not fund ISAC operations, APTA has had to look for an alternate method of providing security intelligence through DHS's newly created Homeland Security Information Network (HSIN). APTA continues to work with DHS staff to create

a useful HSIN application for the transit industry. It is clear, however, that while the HSIN may become an effective resource, it does not duplicate or provide the 24/7 two-way communication functions provided through the Public Transit ISAC. We believe that consistent, on-going and reliable funds from Congress should be provided for the Public Transit ISAC which has been proven an effective delivery mechanism for security intelligence. We respectfully urge Congress to provide \$600,000 annually to maintain the Public Transit ISAC.

In addition, APTA's membership includes many major international public transportation systems, including the London Underground, Madrid Metro, and the Moscow Metro. APTA also has a strong partnership with the European-based transportation association, the International Union of Public Transport. Through these relationships, APTA has participated in a number of special forums in Europe and Asia to give U.S. transit agencies the benefit of their experiences and to help address transit security both here and abroad.

COST OF HEIGHTENED SECURITY

Following the attacks in London in 2005, APTA was asked to assist the Transportation Security Administration (TSA) in conducting a teleconference between the TSA and transit officials to discuss transit impacts pertaining to both increasing and decreasing the DHS threat levels. There is no question that increased threat levels have a dramatic impact on budget expenditures of transit agencies and extended periods pose significant impacts on personnel costs. The costs totaled \$900,000 **per day** for U.S. public transit agencies or an estimated \$33.3 million from July 7 to August 12, 2005 during the heightened state of "orange" for public transportation. This amount does not include costs associated with additional efforts by New York, New Jersey and other systems to conduct random searches.

Many transit agencies are also implementing other major programs to upgrade security. For example, New York's Metropolitan Transportation Authority (NY-MTA) is taking broad and sweeping steps to help ensure the safety and security of its transportation systems in what are among the most extensive security measures taken by a public transportation system to date. NY-MTA will add 1,000 surveillance cameras and 3,000 motion sensors to its network of subways and commuter rail facilities as part of a \$260 million Integrated Electronic Security System. In fact, NY-MTA plans to spend over \$1.2 billion on transit security.

SECURITY INVESTMENT NEEDS

Mr. Chairman, since the awful events of 9/11, the transit agencies have invested more than \$2.5 billion of their own funds for enhanced security measures, building on the industry's already considerable efforts. At the same time, our industry undertook a comprehensive review to determine how we could build upon our existing industry security practices. This included a range of activities, which include research, best practices, education, information sharing in the industry, and surveys. As a result of these efforts we have a better understanding of how to create a more secure environment for our riders and the most critical security investment needs.

Our survey of public transportation security identified enhancements of at least \$5.2 billion in additional capital funding to maintain, modernize, and expand transit system security functions to

meet increased security demands. Over \$800 million in increased costs for security personnel, training, technical support, and research and development have been identified, bringing total additional transit security funding needs to more than \$6 billion.

Responding transit agencies were asked to prioritize the uses for which they required additional federal investment for security improvements. Priority examples of operational improvements include:

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

Priority examples of security capital investment improvements include:

- Radio communications systems
- Security cameras on-board transit vehicles and in transit stations
- Controlling access to transit facilities and secure areas
- Automated vehicle locator systems
- Security fencing around facilities

Transit agencies with large rail operations also reported a priority need for federal capital funding for intrusion detection devices.

ONGOING TRANSIT SECURITY PROGRAMS

Mr. Chairman, while transit agencies have moved to a heightened level of security alertness, the leadership of APTA has been actively working with its strategic partners to develop a practical plan to address our industry's security and emergency preparedness needs. In light of our new realities for security, the APTA Executive Committee has established a Security Affairs Steering Committee. This committee addresses our security strategic issues and directions for our initiatives. This committee will also serve as the mass transit sector coordination council that will interface with DHS and other federal agencies forming the government coordinating council.

In partnerships with the Transportation Research Board, APTA supported two TCRP panels that identified and initiated specific projects developed to address *Preparedness/Detection/Response to Incidents* and *Prevention and Mitigation*.

In addition to the TCRP funded efforts, APTA has been instrumental in the development of numerous security and emergency preparedness tools and resources. Many of these resources were developed in close partnership with the FTA and we are presently focused on continuing that same level of partnership with various entities within DHS. Also, APTA has reached out to other organizations and international transportation associations to formally engage in sharing information on our respective security programs and to continue efforts that raise the bar for safety and security effectiveness.

RAIL AND PUBLIC TRANSPORTATION SECURITY ACT OF 2007

Mr. Chairman, we thank you for making public transportation security improvements a priority for your Committee. We appreciate your interest and support for strengthening the federal program intended to protect tens of millions of transit users and the hundreds of thousands of transit workers against terrorism. We appreciate the \$3.36 billion which would be authorized for transit security grants under this bill and believe it would allow us to make considerable progress in addressing the \$6 billion in transit security needs that have been identified.

This legislation and current programs place the responsibility for transit security squarely on the DHS, however we urge the Congress to require DHS to effectively partner with both transit agencies and the FTA in its efforts to enhance transit security. Every major transit agency has already conducted security risk assessments for their system. Transit agency operators understand their security vulnerabilities and needs. While we understand the need for DHS and the Congress to ensure that limited resources are used as efficiently as possible, we also feel strongly that providing these systems with the resources to deter, detect, and prevent terrorist activities, and to respond effectively if a critical event does occur, should be of paramount importance. We remain convinced that a more efficient delivery system for grants, ideally one where funds go directly to transit agencies, is one of the most effective ways to enhance security. The current system where agencies, after receiving an allocation, must develop regional plans for use of grant funds, pass those proposals back up to DHS through state agencies, then have DHS often request grant proposal modifications which are passed back down through the chain before they are resubmitted and ultimately awarded has not worked well. It is slow and inefficient.

We also appreciate that funds under this bill are made available to address both operational and capital needs. Funding is needed to support additional security personnel, as well as overtime and salary costs related to training, drills, planning and risk assessments. Funding is also needed for technology and capital improvements. In both cases, however, we urge Congress to provide flexibility because assessments, technology, and operating needs do vary in different cities and among transit agencies with a wide variety of different operating conditions. Large rail systems are different from bus systems in smaller communities, and both are different than commuter rail operations. We believe that the determination of appropriate technology needs and operating improvements are something that is best done in partnership with the transit industry and not determined unilaterally by DHS. Further, the requirement for assessments at all agencies in communities with more than 50,000 people should recognize the differences among resources, capabilities and risks in different size communities and agencies.

We are also concerned about how the regulatory responsibility placed on DHS in the bill may move accountability away from the transit agencies themselves. Transit agencies should be held accountable for the efficient use of grant funds, but grant oversight should not become an impediment to using these grants to improve security. We also question whether the civil penalties and enforcement of regulations required under the bill will improve security. Transit systems are generally state, county, or municipal agencies headed by local officials responsible to the people of their community. If transit systems are fined, such penalties will essentially be paid by taxpayers and fare paying customers or come at the expense of transit service or transit security.

As noted earlier, we are concerned about the requirement for a state or local match for security grants. National security is a federal responsibility. Security should not be predicated on a community's ability to raise local tax funds. We are also concerned about a process that would necessitate the detailed disclosure of how security funds are to be used in a public forum. A local

match requires the approval of a local governing body. Approval of such grants in an open, public forum, where specific project information is discussed is simply inappropriate for security sensitive projects. We should not make such information available to potential terrorists.

We further urge Congress to fund the development of security standards and protocols by the industry, and for the Public Transit Information Sharing Analysis Center (ISAC). Security standards are currently being developed by APTA in partnership with DHS and the DOT, but, to date, funding support has not been provided by DHS. Similarly, the public transit ISAC continues to provide a vital 24/7 security information service to the transit industry and its continuation is also in need of funding support.

CONCLUSION

Mr. Chairman, I want to thank you for your leadership and to thank this Committee for its efforts to improve security in the nation's transit agencies. We pledge our cooperation as you continue to develop the national response to this issue. We genuinely appreciate the opportunity to comment on this important legislation and stand ready to work with DHS and the Congress to protect our riders, employees and communities against potential terrorist acts.