

“Optimizing State Safety Oversight of the WMATA Metro Rail System” White Paper
Frequently Asked Questions

-- What is the White Paper?

The White Paper is a plan of action to cooperatively address safety problems on the Washington Metro Rail system that was announced by the Governors of Maryland, and the Mayor of the District of Columbia in April, 2010. It outlines their new plan for strengthening the roles, authorities and responsibilities of the Tri-state Oversight Committee, or TOC, which is the organization that oversees safety and security on the Washington Metrorail system.

-- When was the White Paper released?

On April 20, 2010, Mayor Adrian Fenty, Governor Martin O’Malley, and Governor Robert McDonnell announced their commitment to a robust SSO Program overseeing the WMATA Metro Rail system.

-- What is the purpose of Phase One?

Through Phase One, our jurisdictional leaders intend to make the TOC as robust as possible as soon as possible. Given the complex nature of enacting any regional compact in a timely manner, the executives of the three jurisdictions have agreed to take actions that do not require waiting for legislative bodies or the Federal Transit Administration (FTA) as they work to enact more stringent safety standards. Phase One represents a short-term effort to turn things around with regard to safety on the WMATA Metro Rail system. This includes establishing a TOC Executive Committee of jurisdictional transportation executives, providing the TOC Chair with additional authority, additional financial support, and requiring monthly reporting and interaction with WMATA and jurisdictional leadership. The jurisdictions will also provide one full-time and one-part time TOC member each to support day-to-day oversight activities, translating into 2,275 personnel hours per year, per jurisdiction.

-- What is the TOC Executive Committee?

Called the TOC Policy Committee in the White Paper, the TOC Executive Committee is a new entity whose role is to (a) set policy direction for the TOC, (b) ensure that safety concerns regarding Metro are brought to the attention of and addressed by senior leadership within the three jurisdictions and WMATA, and (c) formulate uniform policies and protocols for the TOC so that it may respond to requests (e.g. for public information, audits, responses to audits, etc.) in a consistent and timely manner.

-- Who will be on the TOC Executive Committee?

The Executive Committee will consist of 3 members and 3 alternates. The 3 members will be: MD Transportation Secretary Beverley K. Swaim-Staley, VA Transportation Secretary Sean T. Connaughton, and District Transportation Director Gabe Klein. Alternates will include: MDOT

Deputy Secretary Harold Bartlett, District DOT Associate Director Scott Kubly and Virginia Department of Rail and Public Transportation Director Thelma Drake.

-- What will its responsibilities be?

1. Receive monthly updates on TOC action items, current safety issues, and specific items that need to be immediately addressed at senior executive levels within the three jurisdictions.
2. Establish standards and policies for requests from public/media, federal government, and state/local government.
3. Establish operating rules of engagement for all TOC members.
4. Interface with the WMATA Board as necessary to resolve any outstanding safety issues.

-- What specific additional authorities will the TOC Chair have?

The TOC MOU will be amended by October 1, 2010 to grant additional executive authority to the Chair of the Tri-State Oversight Committee to act in specific safety situations with WMATA that require coordinated action. Details on these amendments will be provided following a meeting between the transportation executives from DC, MD, and VA in May 2010, after the May 4 deadline for TOC to submit its response to the FTA Audit. Through the amendments, the TOC Chair will be empowered to make executive decisions for the TOC and address immediate real-time safety issues at Metro, and approve correspondences and corrective actions.

-- Will the TOC Chairmanship be permanent?

No. It will rotate every 2 or 3 years in order to ensure continuity of safety oversight. WMATA needs to know that the person in place is committed to seeing change occur. Longer terms will provide incentive to the chairman to undertake more significant action – he/she can't "wait out" an issue knowing that the other jurisdiction will have to deal with it.

-- Will the process for selecting the TOC Chair change?

No. It will rotate every 2 or 3 years between the jurisdictions. VA is current Chair as of March 2010. MD will be Chair in 2012 or 2013.

-- What will the monthly reviews and reporting requirements consist of?

The TOC will be required to provide monthly reports which identify current activities, outstanding safety issues, unresolved deficient conditions at Metro, status of accident and incident investigations, and updates on the implementation of Corrective Action Plans. The TOC will meet on a regular basis with the following entities in order to present these reports:

- TOC Policy Committee
- WMATA Board
- WMATA General Manager
- WMATA Senior Safety Executive Committee
- Federal Transit Administration

This information will be provided on a web page dedicated to TOC. In addition, the Governors and Mayor will be meeting with the WMATA Board this summer to reinforce the need for routine accountability reporting between WMATA and the Governors and Mayor. Follow up meetings will be held with the transportation executives from the three jurisdictions

-- What is the status of Metro carrying out safety recommendations of the TOC?

The attention of the WMATA Board of Directors has helped to improve WMATA's responsiveness to TOC requests to carry out their safety recommendations. These significant strides include:

1. Establishing a Right-of-Way Worker Protection Task Force (RWP Committee): Launched after an RWP "summit" that solicited the input of other rail transit agencies, this group of key WMATA track, rail transportation, safety, emergency management and training personnel meet every week.
2. Establishing a Corrective Action Plan Technical Review Entity (CAPTURE): The CAPTURE process holds front-line managers and supervisors accountable for safety improvement plans, ensuring a consistent flow of information and helping to close out a significant backlog of unfinished Corrective Action Plans.
3. Improving their internal safety audit capabilities, such as ensuring full-time agency personnel are trained and qualified to perform those duties without assistance from outside organizations.

-- In Phase Two, will the TOC be phased out?

The White Paper's "Phase Two" gives options for phasing out the TOC when external factors allow a more comprehensive oversight mechanism to be established. Such external factors include enactment of H.R. 4643 / S. 3015 (the Public Transportation Safety Act of 2010), promulgation of FTA guidance, execution of a Presidential Executive Order, WMATA Board decisions that improve transit safety, or a determination by the jurisdictional leadership that a combination of these events have altered the original plan to enter into a second phase. The transportation executives will be discussing these issues in the coming months.

-- Can the member jurisdictions (MD, DC, VA) establish an independently-funded, independently-staffed, and legally-authorized State Safety Oversight (SSO) agency over WMATA's safety functions in the short-term?

While we understand the desire to establish an independently-funded, independently-staffed, and legally-authorized SSO over WMATA safety in the short-term, certain factors render it impractical to do so. The White Paper provides three basic reasons why an independently-funded, independently-staffed, and legally-authorized Metro Safety Commission (MSC) could not and should not be established in the short-term. First, implementing the MSC will likely entail actions that will require more than a year to establish. Resources and rules of participation will have to be formalized through binding agreements, and may require legislative action on the

local, state, and federal levels. Second, the current budgetary challenges on the three jurisdictions due to the economic recession may further constrain the ability of the jurisdictions to take Phase Two actions sooner rather than later and additional federal resources are not yet available. Third, Phase Two may be shaped by a variety of federal actions, including enactment of H.R. 4643 / S. 3015 and promulgation of FTA guidance. The three TOC jurisdictions cannot afford to expend valuable taxpayer resources on establishing an MSC if it is not known how federal legislation and/or regulations will alter the regional transit safety oversight function over WMATA.

-- What are the make-up, funding, and responsibilities of the MSC?

The plan that the Governors and Mayor approved on April 20, 2010 will set the stage for consideration of a more comprehensive oversight structure. The first alternative would have the FTA be more involved in the safety oversight functions of the WMATA rail transit system if the Public Transportation Safety Act is enacted and gives regions like ours in the National Capitol Region compelling reasons to partner with the federal government to directly provide transit safety oversight. Final determination on whether such a commission is established has not been made. Further discussion among regional transportation and legislative leaders will follow in the coming months. Issues to consider in establishing the commission include the make up of the body, responsibilities, qualifications of the director and the staff and appropriate funding.

-- What has been discussed by the regional transportation executives with regard to WMATA governance?

The White Paper released on April 20, 2010 calls for the TOC Executive Committee to undertake this evaluation in the near future, and work with our congressional delegation to develop potential Metro Compact revisions.