

COMMONWEALTH OF PENNSYLVANIA

HOUSE OF REPRESENTATIVES

Transportation Committee

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 Public Hearing -- Investigating the policies :
 of public organizations regarding vehicle :
 operations. :
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Pages 1 through 93

Duquesne Light Auditorium
One Oxford Center
Grant Street
Pittsburgh, Pennsylvania

Thursday, June 3, 1993

Met, pursuant to notice, at 9:30 a.m.

BEFORE:

REPRESENTATIVE JOSEPH F. MARKOSEK, Chairman
REPRESENTATIVE JOSEPH PRESTON
REPRESENTATIVE SUSAN LAUGHLIN

ALSO PRESENT:

PAUL E. PARSELLS

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E X H I B I T S

NUMBERS

FOR IDENTIFICATION IN EVIDENCE

(None.)

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P R O C E E D I N G S

(9:30 a.m.)

1
2
3 **REPRESENTATIVE JOSEPH F. MARKOSEK:** Ladies and
4 gentlemen, I would like to convene the "very" subcommittee, I
5 guess, here today of the Subcommittee on Mass Transportation.
6 I am Representative Joe Markosek. I am the Chairman.

7 With me up here today is Paul Parsells, who is our
8 Committee staff person. All the members of the
9 Transportation Committee have been invited. We expected some
10 will trickle in and out of here today during the hearing.
11 Others are tied up in Harrisburg, or at other meetings.

12 There are a number of Committee meetings today all over
13 the State, due to the fact that we are not in session this
14 week.

15 As you know, we have passed the State budget early, and
16 as a result, it opened up a week where a lot of Committee
17 Chairmen have taken advantage of that to hold Committee
18 hearings and Committee meetings, and we're no exception to
19 that.

20 I would like to first thank the folks from Duquesne
21 Light for allowing us to use their beautiful facility here
22 and have provided some refreshments. If anybody needs a cup
23 of coffee, it's right outside the hall, right behind the
24 stage here. Feel free to help yourself.

25

1 We would also like to recognize John Seserko from
2 Representative Cessar's office. Representative Cessar is in
3 Harrisburg and could not attend. He is the Minority Chairman
4 of the Transportation Committee, but his staff person, John,
5 is here, and we thank him for attending.

6 With me up here is Paul Parsells, our staff person from
7 the Committee in Harrisburg, who came out here today to be at
8 this meeting.

9 Our Chairman, Representative Joe Petrarca, is not able
10 to attend. He is at a ribbon cutting for a new highway out
11 in my area, Delmont, Murraysville area on Route 22, a very
12 important highway.

13 Hopefully, if the PennDOT people here are listening, we
14 can have another ribbon cutting out in Murraysville as soon
15 as we get the money for that highway out there. That's a
16 little plug there for some road work in my district.

17 With that, I would like to just start by making several
18 comments. This hearing is the product of a couple of
19 incidents that happened here in the Pittsburgh area recently
20 as we all know, an incident involving a Port Authority bus
21 where a number of people were injured; also, an incident
22 involving a PennDOT truck.

23 Both incidents had evidence of driving under the
24 influence. The bus incident also, it has been shown later,
25 had a problem with the driver not being licensed.

1 I am not here today to try to air all of the complaints
2 and dirty laundry of either Port Authority or PennDOT. In
3 fact, my whole purpose for being here, I guess, using an
4 analogy with your kids, is sort of a tough love kind of a
5 thing.

6 Certainly, there hasn't been, in my opinion, an
7 organization that has been more supportive of either the Port
8 Authority or PennDOT than the State Legislature. We were
9 able to get the Port Authority some additional money this
10 year in the budget.

11 Although it was not as much as they would like, I
12 think, in view of the fact that it is a tight budget again,
13 as it is always, and we were able to pass it without raising
14 taxes, that all in all, we did try and were somewhat
15 successful in sending some extra funds to the Port Authority.

16 A couple of years ago, we installed a dedicated tax
17 using liquid fuel revenue; some of that goes to the Port
18 Authority and that was something that they had been lobbying
19 for for many years.

20 Certainly, our support of PennDOT -- and mine
21 personally -- has always been there. I think very highly of
22 both of these organizations. I think the majority of the
23 employees that they have working for them -- the vast
24 majority, really do just a wonderful job and are hard-working
25 individuals.

1 Having said all that, however, we have seen some
2 problems occur, and I think it is our duty to investigate,
3 not so much the pros and cons of those individual incidents,
4 but rather, the overall system and the overall procedures for
5 licensing and controlling drivers and the vehicles that go
6 out on our highway. I think we owe that to the public.

7 Before I call our first witness, I would like to say
8 that Representative Joseph Preston from the East Liberty/
9 Highland Park Area, my good colleague from the Legislature
10 has just joined us as well.

11 Welcome, Joe.

12 REPRESENTATIVE PRESTON: Yes, thank you.

13 REPRESENTATIVE MARKOSEK: All right. Our first person
14 on the agenda is for the Port Authority represented by their
15 Director, Mr. Bill Millar.

16 Bill, and anybody else that you have with you, if you
17 would come forward and introduce them as well.

18 Whereupon,

19 WILLIAM W. MILLAR
 and
20 JAMES SATTERFIELD

21 having been called as witnesses, testified as follows:

22 DIRECT TESTIMONY

23 BY WITNESS MILLAR:

24 Thank you Mr. Chairman. I appreciate the opportunity
25 to be here. First let me introduce Jim Satterfield, who is

1 accompanying me today. He is the Assistant Director of
2 Transit Operations at the Port Authority, specifically for
3 our bus operations.

4 Jim is also the current chairman of our Operations
5 Review and Safety Committee, which is the primary committee
6 that is involved in both assisting me and setting safety
7 policy for Port Authority, as well as assessing safety
8 problems at the Authority and investigating serious
9 accidents, so, I thought it might be appropriate to have him
10 accompany us today.

11 Before I get into my formal remarks, this it, I think,
12 the first opportunity I have had to congratulate you and
13 Representative Preston and all involved in passing the State
14 budget.

15 As one who has followed the Legislature for over 20
16 years, that really is a monumental achievement anytime a
17 budget is passed, and to see it passed this early, I commend
18 you.

19 REPRESENTATIVE PRESTON: "Anytime." I like that.

20 WITNESS MILLAR: Well, it's a hard thing, as you know,
21 and I commend you and yes, you are right, we would like to
22 have seen a couple more bucks, but we did see a couple that
23 had been above what the Governor proposed, and we are
24 appreciative of that.

25

1 We understand there are at least two additional bills
2 that the Legislature hopes to act on in the near future that
3 would make some additional funds available.

4 Once again when the Port Authority called, the
5 Legislature did its best in very difficult circumstances to
6 try to respond, and I appreciate that, and I know our Board
7 does, and I'm sure that our 275,000 riders-a-day very much
8 appreciate it.

9 One other thing, you may have noticed I arrived just in
10 the nick of time. Literally, our testimony just came out of
11 the word processor, and additional copies are following me.
12 I will have some additional copies for you momentarily.

13 I might add, I have not even proofread it yet, so, as I
14 go along here this morning, I may make a couple of slight
15 corrections. When I get five extra minutes, I will proof it
16 and we will have an accurate final copy for you.

17 Some of you who have seen me testify know I normally
18 summarize my testimony, but I think, because of the gravity
19 of this situation, and the necessity for as much precision as
20 possible to make sure that the facts that are appropriate are
21 presented properly, I do plan to read the testimony.

22 At the end, I obviously am at your pleasure in terms of
23 answering any questions or enlarging upon what is here, or
24 describing any of the several attachments that we have
25 included with the testimony.

1 So, for the record, I am William W. Millar. I am the
2 Executive Director, Port Authority of Allegheny County. I
3 would like to thank Representative Joseph Markosek for
4 allowing me to address this hearing today.

5 Improving upon PAT's safety record is a goal we all
6 share. I appreciate your patients and understanding while we
7 investigated the accident, which occurred on the Martin
8 Luther King, Jr. East Busway involving bus #3760 on May 18,
9 1993.

10 Before providing the results to date of the continuing
11 accident investigation, I would like to provide you with some
12 background information on PAT operations.

13 Port Authority operates nearly 800 buses and trolleys
14 during peak hours. Port Authority revenue vehicles travel 32
15 million miles in a year and carry about 76 million passengers
16 annually.

17 Port Authority service is operated on approximately 200
18 routes accounting for approximately 9,000 service trips on an
19 average weekday. Port Authority service encompasses the 730
20 square miles of Allegheny County, and parts of adjacent
21 counties.

22 Buses traveling on the Martin Luther King, Jr. East
23 Busway carry approximately 28,000 riders on an average
24 weekday. Approximately 35 PAT routes use the East Busway,
25 accounting for about 800 service trips in the average day.

1 Finally, busway service is ten times safer than bus
2 service that is provided in mixed traffic. I think that is a
3 very important statistic.

4 Considering the characteristics of PAT's service area,
5 the number of vehicles operated and the miles traveled on an
6 annual basis, accidents will unfortunately occur. However,
7 due to stringent Port Authority policies, many examples of
8 which are attached to this testimony, extensive training and
9 hard work by PAT's professional employees, serious accidents
10 involving PAT vehicles are rare.

11 In fact, we have made great strides toward improving
12 PAT's safety record. In 1990, for example, PAT experienced
13 some 7.8 accidents on the East Busway per one million miles
14 traveled.

15 We were able to reduce that number in the following
16 year to 4.7 accidents per million miles traveled, and in
17 1992, PAT's accident rate on the East Busway continued to
18 decrease, with 3.2 accidents per million vehicle miles.

19 The accident rate on the East Busway has dropped by
20 more than 50 percent in the past two years. Furthermore,
21 since 1977, PAT has decreased its accident rate for the
22 entire system by more than 50 percent. Please note, that we
23 count any occurrence as an accident, so most of the accidents
24 we have are, in fact, very minor fender benders or slight
25 scrapes. Accidents of a serious nature are rare, indeed.

1 It is not surprising that buses operating on exclusive
2 busways are safer than buses operating in public streets,
3 considering the factors involved with operating a bus on
4 public streets, including the other vehicles that are
5 present, the many pedestrians, the narrow streets, the tight
6 corners, and the innumerable detours that we face.

7 Because PAT's busways are exclusive bus roadways, the
8 above mentioned factors are minimized, thus increasing safety
9 of operation.

10 Port Authority has implemented a number of policies and
11 procedures over the years in order to improve and maintain
12 safe operating conditions. Some of these include: one, pre-
13 employment screening for new employees; criminal records
14 checks of prospective employees; physical examinations and
15 drug testing of prospective employees.

16 Two, in terms of our student operator training, student
17 operators go through an intensive nine week training course,
18 during which safe operating practices are emphasized.

19 Three, we work hard to manage and work with our current
20 employees. For example, driver's license checks are
21 performed and policies are maintained in this area. Drug and
22 alcohol abuse testing is performed on a reasonable-cause
23 basis, and it includes random testing under specified
24 circumstances.

25

1 A confidential employee assistance program is available
2 to all PAT employees, and I might add, we were one of the
3 first major employers in the area to institute such a program
4 over ten years ago, and it is a model program that has been
5 used by many public and private entities since that time.

6 Next, we maintain a strict performance code which sets
7 a standard of performance for all our employees, and we
8 expect them to meet it. Finally, we are involved in route
9 qualification and retraining as necessary and appropriate.

10 The next area is vehicle maintenance. All our vehicles
11 are maintained on a continual and regular basis and must pass
12 rigid State-required inspections, at least twice a year. PAT
13 operators must perform a pre-trip vehicle inspection before
14 taking the bus out on a road.

15 Now, I would like to turn to the specifics of the
16 accident you referred to in your opening, Mr. Chairman, the
17 accident that took place on the East Busway on May 18, 1993.

18 First, I want to thank and commend each of the members
19 of PAT Operations Safety and Review Team for their
20 thoroughness and hard work in determining the cause of the
21 accident and making recommendations to help prevent a
22 reoccurrence.

23 Next, I would like to commend and thank the PAT police,
24 the Wilkinsburg police and the numerous fire and emergency
25 medical services and hospital personnel for their quick

1 response in helping treat those who were injured as a result
2 of that accident.

3 Now, as standard operation procedure in the event of a
4 serious accident, Port Authority's Operation Safety and
5 Review Team was activated to perform an investigation of this
6 accident.

7 The Operations Safety and Review Team conducted and
8 extensive investigation in order to determine the cause of
9 the accident and, if appropriate, come up with
10 recommendations to help prevent an accident of this type from
11 reoccurring.

12 The investigative techniques used by the Team included
13 the following: reviewing written statements of bus
14 passengers, passengers waiting at the Hay Street boarding
15 area, and other witnesses and Port Authority employees; a
16 thorough inspection of the braking, steering and tires of bus
17 #3760 to determine possible failure; reviewing official
18 reports and documents relevant to the accident; interviewing
19 Port Authority employees; inspecting the scene to gain
20 information regarding the cause of the accident; reviewing
21 the results of the operator's drug and alcohol test to
22 determine his fitness to operate; reviewing tapes of PAT
23 radio transmissions directly before and after the accident,
24 and following up on the numerous miscellaneous pieces of
25 information which have come from a variety of sources.

1 As a result, I believe that today we are able to
2 determine the events which took place immediately prior to
3 and directly following the accident and fix a probable cause.
4 However, I must caution, our investigation is not yet
5 complete, and additional relevant information may result.

6 Turning to the specifics of the accident, on May 18th,
7 at approximately eight minutes before the accident, outbound
8 bus #3760 was observed by a PAT flagman traveling toward a
9 PAT work crew near the 26th Street ramp on the Martin Luther
10 King, Jr. East Busway.

11 There flagmen were stationed at the work site. The
12 flagman signaled the bus operator of bus #3760, indicating a
13 work zone was ahead and that he should operate his vehicle
14 slowly and with caution.

15 The operator of bus #3760 continued at a speed, which
16 in the opinion of the flagman, exceeded the speed necessary
17 for safe operation through the work zone. This flagman
18 immediately radioed Port Authority Road Operation's traffic
19 dispatcher and reported that the operator of bus #3760 had
20 ignored his indication to slow down and travel with caution
21 through the work zone.

22 He also reported that the operator was wearing
23 headphones and that he was, quote, "rocking in the seat,"
24 unquote, as he drove through the bus work zone. I might add,
25 this account of that portion of the situation was later

1 corroborated during interview statements with the passengers
2 who were on the bus.

3 A PAT dispatcher received the call and immediately
4 radioed for the route foreman assigned to that area. The
5 route foreman radioed by the dispatcher was out of his
6 vehicle servicing a Port Authority bus. The traffic
7 dispatcher continued to make attempts to contact the route
8 foreman in order to instruct him to intercept bus #3760.

9 A few minutes later, before PAT Road Operations
10 personnel were able to intercept the bus, a call came over
11 the radio that an accident had occurred in Wilkinsburg at the
12 Hay Street boarding area of the Martin Luther King, Jr. East
13 Busway, and to send for emergency assistance. The traffic
14 dispatcher initialed appropriate emergency procedures.

15 Subsequent information revealed that the bus operator
16 had passed up waiting passengers along the busway, and that
17 he had made an unscheduled stop on the outbound trip to
18 Wilkinsburg.

19 Witnesses reported that bus #3760 was, quote,
20 "speeding," unquote, as it approached the Hay Street boarding
21 area on the Martin Luther King, Jr. East Busway. Witnesses
22 also indicated that the bus operator seemed to, quote, "lose
23 control," unquote, of the bus as it rounded the curve at the
24 Hay Street stop.

25

1 The bus struck the center island at the Hay Street
2 boarding area, resulting in the right side of the bus
3 striking a passenger bench and a shelter where passengers
4 were waiting.

5 The accident resulted in injuries to 20 persons,
6 including the bus operator. The operator and a person
7 waiting for the bus were hospitalized, and 18 others were
8 treated and released. I have just recently received some
9 information that a total of three persons were hospitalized,
10 17 were, in fact, treated and released. The total number
11 that we have determined that were involved were 20 persons.

12 Port Authority's Operations Safety and Review Team
13 responded to the accident site and immediately began its
14 investigation. Upon careful review of the accident site, the
15 vehicle and its maintenance records, along with a collection
16 of data from other sources outlined above, some general
17 findings have been reached.

18 First, the Port Authority bus operator was operating
19 bus #3760 at a speed in excess of PAT established speed
20 limits and at a speed unsafe for conditions.

21 Next, the bus operator was observed wearing headphones
22 by several witnesses, and a Port Authority employee, prior to
23 the time of the accident, a violation of both Pennsylvania
24 Motor Vehicle Code and Port Authority policy.

25

1 The bus operator was inattentive to his operating
2 duties; witnesses said that he was, quote, "dancing in his
3 seat," unquote, and bus #3760 showed no sign of brakes,
4 steering or tire failure. However, a condition card was
5 found on the bus indicating a malfunctioning speedometer.
6 This is not believed to have been a contributing factor to
7 the accident.

8 Further investigation into the accident revealed that
9 the bus operator was operating the vehicle under a commercial
10 driver's license which had been suspended on March 26, 1992,
11 a violation of the Pennsylvania Motor Vehicle Code and Port
12 Authority policy.

13 The license suspension involved a 1991 moving
14 violation, while the operator was driving a private vehicle
15 off Port Authority duty. The suspension resulted from his
16 failure to pay the imposed fine.

17 Due to his injuries, the bus operator was taken to
18 Presbyterian Hospital where drug and alcohol tests were
19 performed. Port Authority obtained a court order in order to
20 obtain results of these tests.

21 The drug and alcohol test revealed the presence of
22 tetrahydrocannabinol, or THC, a chemical commonly found in
23 marijuana, although from the hospital's report, Port
24 Authority could not determine if the operator's judgement was
25 impaired at the time of the accident.

1 In addition to these findings, the following
2 conclusions have also been determined: one, the East Busway
3 pavement was wet and this could have affected the stopping
4 distance of the bus, but this cannot be conclusively proven;
5 two, bus #3760 was operating in excess of the speed limit,
6 but actual speed cannot be determined; three, a 62-foot long
7 skid mark on the pavement indicated the bus operator had
8 applied the brakes prior to the accident; four, response and
9 reaction time to the accident by all personnel and outside
10 agencies was excellent.

11 Furthermore, I must say I am deeply concerned about
12 this operator's fitness for duty and whether or not he should
13 have been operating in revenue service. This is a matter for
14 continuing investigation.

15 To help minimize the risk of this type of accident from
16 reoccurring, I have ordered the following actions to be
17 taken: one, we plan to work with the Pennsylvania Department
18 of Transportation to obtain notice of driver's license
19 revocation of PAT employees, who require a valid commercial
20 driver's licenses for their jobs.

21 I recommend that the State computers be programmed to
22 automatically alert an employer when a commercial driver's
23 license is revoked.

24 Two, recognizing that the first either may not be
25 possible or may take some time to implement, PAT will make

1 more frequent checks of the status of PAT employees driver's
2 licenses. But, as the Post-Gazette pointed out, a more
3 frequent review may not have caught the operator's license
4 suspended in this case. Again, we will look forward to
5 working with PennDOT on how we can accomplish this in the
6 most practical and cost-effective manner.

7 Three, we will work with the Unions representing PAT's
8 employees to modify our established Drug and Alcohol Abuse
9 Program regarding random drug and alcohol testing.

10 Four, we will provide additional training to PAT
11 employees to improve the understanding of and compliance with
12 Port Authority's safe operating procedures.

13 Five, we will construct a barrier at the Martin Luther
14 King, Jr. East Busway Hay Street boarding area to improve
15 safety and protection of pedestrians.

16 Six, we will increase Port Authority Transit Police and
17 supervisory surveillance of PAT's busway system to insure
18 compliance with busway operation procedures by all those
19 authorized to use our busways.

20 In closing, I must say that the PAT system is a safe
21 system, but like anything, it can be made safer. I must say,
22 it is my firm commitment to institute the actions that I have
23 outlined above. It is the responsibility of every PAT
24 employee and my personal pledge to operate the safest public
25 transit system possible.

1 I want to thank you again for the opportunity to appear
2 here today, and I will be pleased to answer any questions you
3 might have or expand upon the items that have been included
4 in my testimony. Thank you.

5 REPRESENTATIVE MARKOSEK: Thank you very much, Bill.
6 As I predicted, we have another legislator that has come into
7 the room, Representative Susan Laughlin, who represents a
8 small portion of Allegheny County.

9 Most of her district is in Beaver County, as well, her
10 home is in Beaver County. She does, however, have a small
11 portion of Allegheny County, and as a result, is part of the
12 Allegheny County delegation.

13 Bill, I would like to ask a couple of questions first.
14 You mentioned that you do driver's license checks
15 periodically now. Yet, we have a driver who was operating a
16 vehicle and had been suspended for a while. How often do you
17 currently do your driver's license checks and should that
18 perhaps be made more frequent?

19 WITNESS MILLAR: Our current policy is to check all
20 licenses of PAT employees, whether they are operators or not,
21 who are involved in driving any kind of Port Authority
22 vehicle twice a year. In addition to that, we may, on
23 occasion, have other reasons to check them, or we may do them
24 on a random basis.

25

1 I certainly agree with you, and as I said in my
2 testimony, I believe that we should check them more often.
3 However, I don't think that merely checking the State records
4 on any kind of basis, whether it is yearly, quarterly, semi-
5 annually, monthly, perhaps even daily, is sufficient. I
6 think we need to take additional steps, which I outlined in
7 my testimony.

8 REPRESENTATIVE MARKOSEK: Currently, PennDOT does not
9 tell you when one of your operator's licenses has been
10 revoked; is that true?

11 WITNESS MILLAR: No, they do not. What we have is a
12 so-called Clean Machine, that is plugged into the State
13 Police system, and we can check to find out, if we know the
14 license number, whether the license is valid or not.

15 Then, at that time, we can notify PennDOT -- and I must
16 say, PennDOT has always been very cooperative in making
17 available to us any information that we've requested.

18 REPRESENTATIVE MARKOSEK: You're suggesting though,
19 that they install a system whereby they automatically inform
20 you when that occurs, and we have PennDOT folks that will be
21 testifying here after you, so, we will ask that question of
22 them, but that's one of your --

23 WITNESS MILLAR: If I might comment on that, the
24 Legislature, of course, passed the commercial driver's
25 license program a number of years ago; it was implemented in

1 1992. I think all this -- and I don't speak for PennDOT, but
2 I am sure they are learning things, we are certainly learning
3 things, and certainly the spirit of the commercial driver's
4 license is that we want our drivers to have the correct
5 license.

6 I think as we go along, we need to make sure that we
7 have the best procedures in place. I should also point out
8 that it is the obligation, not only of all who work for Port
9 Authority and have commercial driver's licenses, but under
10 State law, it is the obligation of all persons who possess a
11 commercial driver's license to notify their employers, if, in
12 fact, that license is suspended or altered in any significant
13 way. In this case, this operator did not do that.

14 REPRESENTATIVE MARKOSEK: On the subject of drug and
15 alcohol testing, you testified that you do it now on a random
16 basis under specified circumstances. Could you not do them
17 on a more random basis, without any particular circumstances,
18 just kind of as a procedure that would keep the driver's on
19 their toes, so to speak, and is there any reason why you
20 currently don't do more drug testing?

21 WITNESS MILLAR: At the moment, there is no statutory
22 authority in place that permits us to unilaterally do random
23 drug testing. However, as I indicated in my testimony, we
24 have an existing drug and alcohol abuse policy with our
25 Unions.

1 It is my intent to discuss with the Unions what changes
2 might be appropriate in that policy and with the consent of
3 the Unions, and if we're able to work out an agreement, then
4 other forms of testing can be applied.

5 I might also add that, under a Federal law, there are
6 currently regulations being promulgated by the Federal
7 government, but they are not finalized as of yet, that would
8 require random testing. Again, we would intend to fully
9 implement those regulations once they are finally promulgated
10 by the Federal government.

11 **REPRESENTATIVE MARKOSEK:** Have you had any roadblocks,
12 so to speak, in doing current random testing other than the
13 items that you mentioned; have you attempted to do more and
14 has there been a reason why you haven't, or has it just been
15 a case of the Federal law not permitting it?

16 **WITNESS MILLAR:** The random testing we currently do is
17 the result of agreements entered into between ourselves and
18 the Unions which represent our employees. The Unions have
19 been very cooperative. There has been no difficulty or
20 roadblocks put up in trying to implement that policy.

21 I think we need to take a step back and ask ourselves
22 what would random drug testing do, if we had universal random
23 drug testing. Some people believe that would automatically
24 end situations like this from happening.

25

1 I do not believe that would automatically end these
2 situations. Certainly, it would be one more tool, and it may
3 reduce the probability of this occurring, but I think there
4 are people who believe that if you implement random testing,
5 all your problems go away. The data where random testing has
6 been introduced suggests that's not true.

7 On the other hand, I believe you are going to hear from
8 a witness later this morning from SEPTA, who will tell you
9 that since their long battle through the courts to implement
10 random testing, that they feel that it has benefitted them.

11 We are in touch with them to learn of their experience
12 as well as the experience of others who have been involved
13 with that. My point is, I don't think there is a single
14 thing we can do which would have eliminated this accident.

15 Obviously, we should do all that is reasonable and
16 within the limits of the law to minimize the chances of this
17 kind of thing reoccurring.

18 REPRESENTATIVE MARKOSEK: On the subject of the
19 incident itself that occurred, the driver in question, was he
20 observed in any way prior to getting on the bus at the
21 garage, with having any abnormal behavior or any behavior
22 that would suggest that perhaps he is under the influence of
23 something?

24 WITNESS MILLAR: There are reports that his behavior
25 was not what one would wish, and those reports are currently

1 being investigated. As I indicated in my testimony, that is
2 a major portion of the ongoing investigation, and I will be
3 happy to supply the Committee with the results of those
4 investigations when they are completed.

5 **REPRESENTATIVE MARKOSEK:** How about his supervisor;
6 obviously, he had a supervisor on duty when he was there; is
7 there any way that he has to check in with that supervisor,
8 that that supervisor would have, perhaps -- does the
9 supervisor have the power to observe some abnormal behavior,
10 and then ask that person not to get on the bus?

11 **WITNESS MILLAR:** Yes. When an operator reports for
12 duty, they report to a dispatcher. That is normal procedure.
13 The dispatcher gives them the items that are necessary for
14 their workday, and the dispatcher may, at that time, be one
15 of the supervisors who might observe any behavior. I am
16 talking in very general terms, right now.

17 As you will see when you review our drug and alcohol
18 abuse policy then, if a supervisor does, in fact, believe
19 that an employee is under some type of influence from a drug,
20 including alcohol, then, there is a procedure set forward for
21 making a final determination on that point.

22 **REPRESENTATIVE MARKOSEK:** Just one other question I
23 have, then I will let my colleagues ask some questions as
24 well. This is really on a positive note. It struck me as
25 curious, you have reduced your accident rate from 7.8

1 accidents per one million miles driven, to 3.2 accidents in a
2 course of about two or three years. What would you attribute
3 that reduction to?

4 WITNESS MILLAR: Obviously, great management, right?
5 I think we need to be careful with any statistics. We stress
6 safety; we train and retrain our people as appropriate.
7 However, remember, we have so few accidents, and I think that
8 is what we need to understand here. We are dealing with a
9 very limited number of accidents.

10 In fact, I am not sure we have the statistics with us
11 today, but you can basically count on one hand, for example,
12 the kinds of accidents you have on a busway in a year. So,
13 therefore, if you had just even one or two less accidents,
14 the rate goes down.

15 I think the more important item there is the other
16 figure that I listed in my testimony, which goes back through
17 16 years of history, that show back in 1977 our accident rate
18 for the whole system was more than double.

19 I think this is further evidence, if you think what's
20 happened since 1977, we have built and opened the South
21 Busway; we built and opened the Martin Luther King, Jr. East
22 Busway; we upgraded our rail system; we improved our training
23 of all our personnel.

24 We did a lot of things over a long period of time, and
25 I believe that 50 percent reduction we ought to get a lot of

1 credit for, because I think it is the result of a lot of hard
2 work.

3 The East Busway I thought was interesting, however, we
4 need to keep it in perspective. There are so few accidents
5 that you can get a major improvement by just having one or
6 two less accidents.

7 **REPRESENTATIVE MARKOSEK:** Have you had any other
8 incidents of any DUI that perhaps didn't make the headlines
9 and didn't make the news, besides this particular accident?

10 **WITNESS MILLAR:** Let me turn to my colleague. My
11 recollection is nothing recently.

12 Do you know of any, Jim?

13 **WITNESS SATTERFIELD:** We have had nothing recently of
14 this nature or this severity. We have had some minor
15 accidents that in the past have caused testing, and there was
16 a positive result.

17 **WITNESS MILLAR:** Why don't we research that issue for
18 you and give you a more definitive answer.

19 **REPRESENTATIVE MARKOSEK:** Has there been any other
20 indications in your random testing of driver's not having
21 licenses?

22 **WITNESS MILLAR:** Yes, that does happen. That's part
23 of why we do our checks. That does happen. Once in a while,
24 it is because the paperwork hasn't caught up with the
25 situation. Other times, it does appear that employees have

1 failed to bring it to our attention when they should have.

2 When that happens -- it happens, fortunately, very
3 infrequently -- there is a procedure set up which includes a
4 disciplinary process, and if it is a flagrant violation,
5 includes discharge.

6 **REPRESENTATIVE MARKOSEK:** I would like to request that
7 you provide the Committee with information regarding how many
8 drivers you have picked up that did not have licenses, and
9 how many DUI incidents you have also had.

10 **WITNESS MILLAR:** Over what period of time would you
11 like that; the last five years; is that good?

12 **REPRESENTATIVE MARKOSEK:** Well, I think that would
13 probably give us pretty good idea.

14 **WITNESS MILLAR:** I think that kind of data is
15 available. We will share with you whatever we have and if
16 you would like more after you see what we have, we'll get you
17 more.

18 **REPRESENTATIVE MARKOSEK:** All right. I would like to
19 let my colleagues question.

20 Representative Preston?

21 **REPRESENTATIVE PRESTON:** Thank you, Mr. Chairman.

22 Welcome. It's unfortunate that we are here on this
23 particular subject. I guess this is a way of continuing to
24 see how we can help each other in this process.

25

1 I have several questions, Bill. First, concerning the
2 driver's license -- all of your employees that are required
3 to have driver's licenses, do you have their numbers?

4 WITNESS MILLAR: Yes, we do.

5 REPRESENTATIVE PRESTON: That includes your management
6 personnel?

7 WITNESS MILLAR: Yes, we do. Anyone who is authorized
8 to operate a Port Authority vehicle, whether in revenue
9 service or not in revenue service, is required to have the
10 appropriate class license. It is filed with the Port
11 Authority; it is computerized and we do check them on a
12 regular basis in accordance with the policy I have shared
13 with you today.

14 REPRESENTATIVE PRESTON: In relation to checking, do
15 you check the management on the same basis, equally, as you
16 do the drivers?

17 WITNESS MILLAR: We check everyone.

18 REPRESENTATIVE PRESTON: The reason why I say that, I
19 mean, I'm sure that you won't talk to any colleague here in
20 Allegheny County, Butler or Beaver, that probably hasn't had
21 some employee from the Port Authority -- or, just to be fair,
22 the utility companies, taxicab drivers, the retailers who
23 drive -- who come in and leave our office and they are under
24 suspension. I look out my window and they're driving off.

25

1 We have all experienced that and it has always been a
2 concern because it is not our function. Our function is to
3 help and try to relate that. But somehow, we all know that
4 the problem goes on, I guess with those people who are
5 responsible for their livelihoods.

6 I have a problem dealing with the bread and butter,
7 because I think it encourages people. I think that there are
8 some of your drivers, as well as some public safety people
9 who can get a bread and butter license, if I am correct. Am
10 I right, Joe?

11 **REPRESENTATIVE MARKOSEK:** It's possible but, not for a
12 **DUI.**

13 **REPRESENTATIVE LAUGHLIN:** Not for a DUI.

14 **REPRESENTATIVE PRESTON:** No, as long as it's not DUI
15 or drug related, but you can have people who have suspended
16 licenses, but are still eligible to be able to drive.

17 I have always raised that concern, because, since we
18 have gone back to that, it's possible we have someone who
19 flagrantly violates the speed law. I think it's something
20 that we really need to look at. Do we need to look at the
21 commercial drivers, then -- that is one question.

22 On your quality leadership chain, are there any
23 employees from the rank and file who are part of that at all?

24 **WITNESS MILLAR:** On the accident investigation team or
25 the quality leadership -- there's two things here. Maybe I

1 wasn't real clear on it.

2 On the Operations Safety and Review Committee -- and
3 that's covered by a policy statement I included here entitled
4 "Operation Safety and Review Committee Policy Statement" --
5 the committee members are as follows: the Assistant Director
6 of Bus Operations; the Assistant Director of Rail and
7 Support; the Manager of Health and Safety; the Manager of
8 Facilities; the Manager of Claims; Chief of Transit Police;
9 Construction Manager for Engineering and Construction
10 Division; and the General Superintendent of Road Operations.

11 These, in fact, are all management employees. However,
12 when we conduct an investigation, obviously, we interview and
13 involve Union employees and we are very careful to make sure
14 that everyone has a proper say in this matter.

15 REPRESENTATIVE PRESTON: I always get concerned
16 sometimes when you have these and not have the people who are
17 actually out there being part of it. In other words,
18 sometimes you solicit the idea, and sometimes they are
19 hesitant unless they are part of the structure.

20 WITNESS MILLAR: We have had no indication that we are
21 getting anything less than complete cooperation from all PAT
22 employees on this, regardless of their represented status.
23 The Union has been cooperative.

24 I understand your concern, but as a practical matter,
25 at the Port Authority safety is understood by all to be very

1 important, and we just don't have that kind of problem.

2 REPRESENTATIVE PRESTON: Does your current Union
3 contract agreement provide for on-the-spot testing?

4 WITNESS MILLAR: What it provides for is the Drug and
5 Alcohol Abuse Policy in a program which we jointly negotiated
6 with the Union. It's in your folder; November 5, 1990 is the
7 date on it.

8 That is incorporated by reference in the current
9 agreement. It used to be a separate agreement, but in the
10 last labor agreement, it was incorporated right into the main
11 agreement of the contract. That sets out the rules for
12 probable-cause testing and the limited random testing that we
13 currently do.

14 REPRESENTATIVE PRESTON: How limited is it?

15 WITNESS MILLAR: The random testing that we do at the
16 moment is a result of what are called "last chance
17 agreements" colloquially. They are situations where an
18 employee has either admitted a problem or been proven to have
19 a problem. They provide generally for random testing for up
20 to five years that that employee must remain completely drug
21 free or face immediate discharge.

22 REPRESENTATIVE PRESTON: So, unless it is involved in
23 a formal process, there isn't any other random testing?

24 WITNESS MILLAR: That's the current status of the law,
25 as we understand it.

1 **REPRESENTATIVE PRESTON:** Does that include the white-
2 collar employees' Union, too?

3 **WITNESS MILLAR:** The one I have shown you here is what
4 applies to Local 85, but we have similar arrangements with
5 the other Unions as well.

6 **REPRESENTATIVE PRESTON:** I think a lot of people need
7 to recognize that driving a bus in the city of Pittsburgh,
8 away from the busway -- just driving a car sometimes is an
9 experience in itself, turning the corners. But on the issue
10 of the busway, I have had some concerns.

11 I know that the trip that we make back and forth to
12 Harrisburg, if you drive it 30 times a year, it's very hard
13 or difficult -- not saying that we do -- but it's very hard
14 to maintain yourself within the speed limit.

15 If you go the same route, you learn all the cracks and
16 you learn all the curves. I guess you probably learn where,
17 the 131 mile marker is.

18 Now, the local city police, because that's private
19 property, do not have jurisdiction over the busway; am I
20 right?

21 **WITNESS MILLAR:** Well, generally that's a fair
22 statement. I mean, there are clear exceptions, but
23 generally, that's a fair statement. The busways are policed
24 by Port Authority Police, by the County Sheriffs under
25 contract to Port Authority, and by our supervisory personnel.

1 They are the main people responsible for it.

2 Now, we do allow emergency vehicles from other police
3 agencies to use the busway, and part of the quid pro quo of
4 allowing that is, if they see something going on on the
5 busway, they are either to use their extended powers to take
6 action, or in most cases, notify Port Authority Police as to
7 a particular situation that is occurring.

8 REPRESENTATIVE PRESTON: But there is never going to
9 be any radar on the busway in the current system, right?

10 WITNESS MILLAR: There is radar on the busway. In
11 fact, due to some, I think, very foresighted State
12 legislation passed a couple of years ago, PennDOT has greatly
13 stepped up its safety program with regard to rail and
14 busways, and we are working with them.

15 REPRESENTATIVE PRESTON: Who issues the citation to
16 the bus driver?

17 WITNESS MILLAR: That is a matter of discipline under
18 our codes and we handle that.

19 REPRESENTATIVE PRESTON: So, there is no citation
20 involved?

21 WITNESS MILLAR: I don't know the answer to that.

22 Jim, do you know the answer to that?

23 WITNESS SATTERFIELD: It's not a citation.

24 WITNESS MILLAR: Not a police citation, per se,
25 involved in it.

1 **REPRESENTATIVE PRESTON:** So, they can get a police
2 citation if they are on Forbes, but they won't be able to get
3 on if they are on the busway?

4 **WITNESS MILLAR:** I believe that's true. I also think,
5 in fairness, you have to say that is equally true on any
6 other private property. I mean, if they are at the
7 Monroeville Mall speeding, they can be cited by the Mall, but
8 they can't be cited by the police.

9 **REPRESENTATIVE PRESTON:** In other words, your Port
10 Authority Police is only a disciplinary action and it is not
11 in the form of a written citation?

12 **WITNESS MILLAR:** That's a very technical legal point
13 and I would rather check it and get back to the Committee in
14 my supplementary remarks as to the details on that. I think
15 it is a very good point you are raising, and we will supply
16 additional information.

17 **REPRESENTATIVE PRESTON:** One of the things that
18 concerns me -- I was reading in your statement and I'm trying
19 to look at this whole picture. You stated that a flagman saw
20 the driver coming by at a high rate of speed, and he was
21 "rocking" in his seat.

22 Now, I am trying to imagine standing on the busway
23 watching a bus come by, and imagine how a flagman can
24 determine that someone is "rocking" in his seat, if he is
25 moving his cushion.

1 I am not trying to take sides one way or another, but I
2 can't imagine a truck driver or anything -- if someone is
3 moving at a high rate of speed, how can a flagman determine
4 that this guy is "rocking" or not, or just like I am doing
5 right now (indicating), just changing my position?

6 WITNESS MILLAR: What I have provided to you, and you
7 will notice it is in quotations, I have given you the direct
8 quotation taken from the radio report that the flagman made.

9 I also put a footnote on it that this, although it was
10 described slightly different, this so-called "rocking" was
11 later corroborated by a number of bus passengers, people who
12 were on the bus and observed the same type of behavior.

13 I raised the same question with my people that you did.
14 So, I gave it to you as a quote, but then it is further
15 corroborated by other statements.

16 REPRESENTATIVE PRESTON: The other problem that I've
17 have, I guess through schooling and dealing with these things
18 in personnel matters, the drug THC is a drug that, 50 percent
19 of it can be proven that it excretes out of your body one way
20 or another within 72 hours.

21 I would not get your legal people of whatever to press
22 on this, but there is no proof if and when the other 50
23 percent ever excretes out of your system.

24 Sometimes I have watched companies hang on to this and
25 this could be from 20 years ago, or one year ago or that same

1 day. I just wanted to bring that to your attention, because
2 I have watched a lot of companies put on legal proceedings in
3 determining that.

4 WITNESS MILLAR: I completely agree with you, and
5 again, I want to make it clear, the results of the drug and
6 alcohol tests that were done at the hospital, simply provided
7 us with a yes or a no; either it was found present, or it
8 wasn't.

9 That's again why I put cautionary notes in my
10 testimony, that I think you have to be very careful about
11 what conclusions you draw. We live in a society where we
12 want to see something like that and draw an instant
13 conclusion, and I'm not sure you can.

14 While I appreciate your caution and agree with what you
15 are telling me -- and, yes, we completely agree with that
16 point. As we review this whole situation and any appropriate
17 discipline that may be applied as a result of this, I assure
18 you that will be done after careful consideration of the
19 facts, and it will be based only on the facts for which
20 absolute judgments can be drawn, not this type of situation.
21 I agree with you.

22 REPRESENTATIVE PRESTON: My last question is, what can
23 we do to help you to tighten up your system and improve it?

24 WITNESS MILLAR: Well, I think the first thing you
25 have done is hold the hearing. Although, I must admit, I

1 might have preferred to be doing something else today, I
2 think this is important that we keep this accountability.

3 Second, I am glad that you included PennDOT and other
4 agencies involved in it. We need to all work together, and
5 again, I want to emphasize the cooperation we get from
6 PennDOT on this, the suggestions we get from them -- I walked
7 in the room and Parker Williams leaned over to me and gave me
8 another good suggestion already this morning for how we can
9 continue to work together. I think that is important.

10 I think the review of the kinds of questions you raised
11 about exactly what kind of citation should be issued; that's
12 something we're certainly thinking about as well. We may
13 have further recommendations forward on that.

14 I think we need to keep all this in perspective. Some
15 of the play that this has gotten in the media, if I can use
16 that word, I believe is rather sensational. We are a nation
17 of laws, and we have procedures that we have to follow, and
18 we have to make sure that people's rights are protected.

19 That includes not only the rights of our passengers and
20 pedestrians and others to safety, but also the rights of our
21 employees and others as they are laid out by law. Some who
22 have dealt with me accuse me of always being slow and
23 methodical, but I have found over the years that that is the
24 best way to get at the real truth of the situation.

25

1 As we review the questions you have raised with us
2 today, and supply addition information, we may have
3 additional suggestions. We certainly want to work closely
4 with PennDOT. I understand it's easy for me to say, for
5 example, that employers ought to be notified, but they are
6 dealing with tens of thousands, if not hundreds of thousands
7 of violations every year.

8 From their perspective, that may be a more difficult
9 thing to do, but maybe in the modern age of computers, it's
10 an easy thing to do; who knows?

11 **REPRESENTATIVE MARKOSEK:** Representative Laughlin?

12 **REPRESENTATIVE LAUGHLIN:** I have one question. I know
13 it is difficult, just as you said to monitor some of the
14 citations that the bus drivers have. There has to be a way
15 that maybe PennDOT can help in reporting to each authority
16 that this driver is on suspension.

17 I don't know whether we could mandate that a driver
18 must report to the authority when they do get a suspension.

19 **WITNESS MILLAR:** That's already required by law. That
20 was included in the State's CDL Act.

21 **REPRESENTATIVE LAUGHLIN:** Oh, well, I came a little
22 bit late. I don't know how else, but hopefully, we will be
23 able to come up with something.

24 **WITNESS MILLAR:** I think, too, it's ironic in this
25 case. The license suspension was actually for a violation

1 that occurred two years ago, but, for a variety of reasons,
2 the actual suspension was not made till this year, and the
3 suspension resulted not from the incident, but the failure to
4 pay the fines related to the incident.

5 I mean, you follow into this chain and, basically,
6 while it is clear the employee violated our policy and we
7 believe also violated State law, I am not sure, even if we
8 had known all that, it would have made any difference in this
9 particular accident. Still, it is clearly something that we
10 have to try to improve upon.

11 REPRESENTATIVE LAUGHLIN: Well, did you say there is a
12 fine if they do not report that?

13 WITNESS MILLAR: In our case, it leads to a
14 disciplinary process. If it involved DUI in any way, it
15 results in termination of the employee -- again, after proper
16 hearings and knowing all the facts and everything like that.
17 So, it's a very serious offense in our case.

18 REPRESENTATIVE LAUGHLIN: Is it rare, though, that it
19 happens?

20 WITNESS MILLAR: Yes, very rare.

21 REPRESENTATIVE MARKOSEK: Representative Preston?

22 REPRESENTATIVE PRESTON: One additional thought. If
23 an employee comes to you in the current system you have, and
24 reports to you that his license is under suspension, and he's
25 a good driver, what happens to him; does he have any

1 protection?

2 WITNESS MILLAR: Yes. That is spelled out in our
3 various policies. There is a procedure that is set forth to
4 make sure we understand the facts. For example, an employee
5 is required to notify us of any violation, any moving
6 violation; that does not necessarily mean that employee is
7 suspended or that his privileges are suspended in any way.
8 That holds true for whether the employee is a unionized
9 employee or management employee.

10 REPRESENTATIVE PRESTON: He does not lose his job; he
11 just performs other duties if he is under suspension?

12 WITNESS MILLAR: It depends on the circumstances of
13 the case. It might lead to some type of disciplinary action.
14 It could be a verbal caution, a written caution, a
15 suspension; it could be alternate work assignments; it could
16 be termination. It could be a variety of things.

17 We employ what is called a progressive discipline
18 program at the Authority. On the other hand, I want to make
19 it clear, if it's DUI, that's very serious and it is not
20 likely that it would lead to a minimal situation. It is
21 likely that it would lead to something after proper
22 investigation and hearings and everything.

23 REPRESENTATIVE PRESTON: I mean, if it was away from
24 his job.

25 WITNESS MILLAR: Again, it's covered -- under State

1 law, you need a valid commercial driver's license to operate
2 these, so there isn't a lot of leeway, and I think it's good.
3 I don't think there should be a lot of leeway.

4 In some ways, the driver's license is the most
5 important possession that a bus operator has, and he needs to
6 protect it, literally, with his life, because that's what it
7 is.

8 REPRESENTATIVE MARKOSEK: Bill, on the other instances
9 where you had drivers that were suspended and your system was
10 able to pick them up, they had not come forward either; is
11 there any indication that drivers do, on occasion, come
12 forward and say, "Hey, my license is suspended"?

13 WITNESS MILLAR: Oh, absolutely. In fact, just going
14 back to Representative Preston's comment of a little bit ago,
15 I don't currently have a deputy executive director, but all
16 of you knew a gentleman by the name of Paul Skoutelas a few
17 years ago.

18 Paul came into me sheepishly one day and he had
19 forgotten to renew his license, and under the policy, he had
20 to notify me that he had failed to renew his license and was
21 not permitted to drive a Port Authority vehicle until the
22 license could be renewed.

23 So, those things happen, and we understand that. There
24 are things that just happen and you have to discriminate
25 between those type of things which literally happen to all of

1 us -- we forget to do something -- and things that genuinely
2 affect public safety, which I believe, then requires
3 additional action.

4 REPRESENTATIVE MARKOSEK: If there are no other
5 questions, Bill and Jim, I would like to thank you both for
6 your fine testimony and I appreciate your coming out this
7 morning.

8 WITNESS MILLAR: Thank you very much.

9 (Witnesses excused.)

10 REPRESENTATIVE MARKOSEK: Is Robert Birnbrauer here?

11 MR. BIRNBRAUER: Yes.

12 REPRESENTATIVE MARKOSEK: Robert, would you come
13 forward please?

14 Whereupon,

15 ROBERT BIRNBRAUER

16 having been called as a witness, testified as follows:

17 REPRESENTATIVE MARKOSEK: Robert is with SEPTA, which
18 stands for the Southeastern Pennsylvania Transit Authority.
19 It is the Philadelphia version of the Port Authority, and a
20 much bigger system.

21 Bob, we are glad you could attend.

22 WITNESS BIRNBRAUER: Thank you.

23 REPRESENTATIVE MARKOSEK: Do you have testimony for
24 the Committee?

25 WITNESS BIRNBRAUER: Yes, I do.

1 **REPRESENTATIVE PRESTON:** Welcome to Pittsburgh.
2 Please state your name and where you are from, and I thank
3 you for visiting us from Mecca.

4 **DIRECT TESTIMONY**

5 **BY WITNESS BIRNBRAUER:**

6 I am Bob Birnbrauer, and I am Senior Director of Human
7 Resources for the Southeastern Pennsylvania Transportation
8 Authority. I have been asked to appear here today to provide
9 information to the committee regarding SEPTA's drug and
10 alcohol program, and our procedure for checking the validity
11 of licenses of operating employees.

12 As you know, SEPTA is the fourth largest transportation
13 system in the United States, and is perhaps the epitome of a
14 multi-modal system. SEPTA operates five modes: bus,
15 trackless trolley, subway/elevated, commuter rail and light
16 rail vehicle systems.

17 In terms of our size of operation, we operate over four
18 million vehicle miles daily, which is the equivalent of
19 traveling 16 times around the earth. Two thousand passengers
20 board per minute in rush hour, and we deploy 2,500 vehicles
21 throughout the five-county Southeastern Pennsylvania area.
22 We employ approximately 9,700 employees.

23 I don't intend to belabor the historical background of
24 the drug and alcohol programs at SEPTA, but I would like to
25 discuss with you some of the history, how the program works,

1 and the current statistics.

2 In January 1987, there was an accident on our Regional
3 Rail Division involving the collision of two commuter trains.
4 In this accident, six crew members were tested, and the
5 results showed that three were found positive for controlled
6 substances.

7 Based upon these factors, in early 1987, the Authority
8 instituted random drug testing for all of its operating
9 employees in all of its divisions. As a result to this
10 action, the Unions, as a group, requested injunctive relief
11 against the Authority's plan to utilize random drug testing.

12 While the Federal District Court of the Eastern
13 District of Pennsylvania initially enjoined the Authority's
14 random testing program, one year later, in early 1988, the
15 Court approved the use of random testing for SEPTA operating
16 employees.

17 Throughout the development of the random drug testing
18 program and the related Court proceedings, many meetings were
19 held with the various labor organizations in an effort to
20 gain their support for a completely integrated drug and
21 alcohol program. We looked at the whole program as a three-
22 legged stool: education, EAP, and testing.

23 We wanted to add the fourth leg to the stool, and that
24 was the Union support. The Unions were able to offer a
25 number of suggestions that would make the program more

1 acceptable to their members.

2 The SEPTA program, therefore, is a result of numerous
3 meetings with labor organizations, as well as lengthy Court
4 proceedings. This program, which is entitled "The Integrated
5 Program of Education, Assistance, and Testing for Intoxicants
6 and Controlled Substances," was approved by the Court in
7 January 28, 1988. The injunction was lifted and we then had
8 the right to proceed.

9 At that time, UMTA's, which is now FTA, proposed
10 rulemaking was issued and was facing challenges in the Court.
11 Using the impending UMTA regulations, and the Court's
12 decision of January 28th, granting us the Constitutional
13 right to randomly test employees for alcohol and drugs, we
14 developed our program.

15 In March of '89, we also agreed with the Union to
16 include in the labor agreement a provision for drug and
17 alcohol testing, which included random.

18 Our drug and alcohol program consists of the following
19 major testing components: pre-employment testing,
20 reasonable-suspicion testing, post-accident testing, random
21 testing, physical examination testing, protective testing,
22 return to work from rehabilitation testing; transfer to a
23 safety sensitive position would require a test.

24 We test ongoing during rehabilitation follow-up
25 periods. If it is a voluntary person, we test for 15 months.

1 If it is someone who is found on a random basis, we have 12
2 months of unannounced, 18 months of scheduled, for a total of
3 30 months of testing.

4 I would like to just highlight a few of these testing
5 episodes, which may be relevant to the hearing today.
6 Reasonable suspicion testing is first. It's pretty much
7 straightforward. Supervisors who are trained in the
8 detection, which is at least a four hour course, look for
9 both the physical and behavioral indicators of probable drug
10 or alcohol use.

11 Statistically, since March 1989 through December 31,
12 1992, there were 596 reasonable suspicion tests conducted; 62
13 of those tests were positive for a 10.4 percent rate.

14 The labor agreement also spells out the consequences of
15 someone who is found positive for a drug test. The
16 consequence of a failed reasonable suspicion test is
17 discharge.

18 Post-accident testing language substantially follows
19 the former UMTA regulations which requires testing for
20 accidents including death, injury requiring an individual
21 being taken to a medical treatment facility, or \$5,000 in
22 property damage.

23 The consequences of post-accident testing are also
24 spelled out in the labor agreement. One, if the operator
25 contributes to the cause of the accident, he or she would be

1 discharged. Two, if the operator did not contribute to the
2 cause of the accident, he would have the opportunity for
3 rehabilitation or resignation.

4 This rehabilitation period would also be followed by
5 30-month follow-up testing provisions. For that same period
6 of time, March of '89 -- and that is when we put it into the
7 labor agreement -- through December 31 of '92, 292 tests have
8 been conducted and 24 have been reported positive.

9 For that span of time, it is an 8.21 percent positivity
10 rate. Looking at the years individually, however, 1989 was a
11 23 percent rate; 1990 was 19 percent; 1991 was 4.2 percent
12 and 1992 was 4.5 percent. Without making a whole lot of
13 judgement, we hope to think that the random testing and the
14 deterrent effect had some decline on this accident rate
15 positivity.

16 In random testing, SEPTA identified jobs which would be
17 tested as safety-sensitive positions. These include the
18 supervisors of the employees in safety-sensitive positions,
19 as well.

20 Of SEPTA's population, approximately 6,200 employees
21 are in safety-sensitive positions and are identified to the
22 random test procedure. After an employee has been tested,
23 they are immediately returned to the pool.

24 We began testing randomly on September 16, 1989 and
25 immediately began testing at the 50 percent rate. We

1 maintained that 50 percent rate for each of our bargaining
2 units separately. With each bargaining unit, we put the same
3 clause, so we needed to maintain that for each group.

4 Since September 16, 1989 through December 31, 1992, we
5 have conducted 10,851 random tests, and 310 were positive.
6 That rate is 2.85 percent.

7 Of the 10,851 tests, only one individual has ever
8 refused the test. I think that is significant, because we
9 did have the Unions' support. Only one individual has ever
10 refused and I think that is a pretty good testimony.

11 The consequences for random testing are also covered in
12 the labor agreement. An employee with a positive result will
13 be offered rehabilitation or resignation.

14 The rehabilitation program is also followed by a 30-
15 month follow-up testing period. However, if the employee
16 ever had a positive on any other test, and is detected a
17 positive on the random, then they would be subject to
18 discharge.

19 The labor agreement also identifies the drugs the
20 Authority tests for: marijuana, cocaine, opiates, PCP's, and
21 amphetamines, which are the same as are outlined in the
22 former UMTA, now the FTA, which are known as the "NIDA Five."

23 We also, however, tested for alcohol, barbiturates,
24 benzodiazepines, methaqualones. The last four are not
25 required by UMTA, nor are they required by the current FTA

1 pending. We use a breathalyzer for the alcohol, which will
2 be part of the FTA, and the other three categories are tested
3 by utilizing the same urine samples.

4 We do have the ability in our labor agreements to
5 change and add to drugs depending on what may be happening in
6 the area at the time.

7 With regard to the checking of validity of operators'
8 licenses, SEPTA previously had a procedure in place in which
9 operators' licenses were checked on an annual basis by the
10 depot superintendent.

11 It became evident that operators were not notifying us
12 of suspended licenses, nor were the employees mailing their
13 licenses to the State as required. Therefore, when an annual
14 check was conducted, they could always produce a license that
15 appeared to be valid, when in fact, it was just never mailed
16 in and returned to the State.

17 In cooperation with the Pennsylvania Department of
18 Transportation, the Bureau of Driver Licensing, in 1985, we
19 began a program to receive employee license checks on a
20 quarterly basis. In 1988, we altered that program to verify
21 license validity on a about a monthly basis.

22 I would like to explain how that procedure works. On
23 every third Friday, SEPTA's Management Information Services
24 Department sends a computer tape to the Bureau containing a
25 list of all SEPTA employees to review their three-year

1 driving record.

2 The report identifies the driver, including his
3 address, license number, date of birth, the type of license,
4 whether it's a CDL, any particular codes, whether it's
5 passenger -- if he's allowed to carry passengers -- and also
6 the driver's license status, i.e., whether it's revoked,
7 suspended, cancelled, etcetera.

8 In seven or ten days, we get this report back from
9 PennDOT and that abstract regarding the employee's operator
10 license status is attached. The report shows the information
11 such as the date of the original license validation, the
12 nature of any of the violations that the employee may have,
13 the description of the violation by vehicle code, and the,
14 action taken which could include suspension or revocation of
15 the driving privileges.

16 When we receive this information by PennDOT, we
17 disseminate that immediately to the operating departments,
18 meaning the superintendents of the locations. The
19 Departments review the abstract with each operating employee
20 regarding the status of his license and the information
21 contained in the abstract.

22 In the event the abstract show that the employee's
23 license has been suspended and he is operating a vehicle --
24 he may be out that day -- a supervisor will be dispatched
25 with another operator with him, and immediately remove the

1 employee from operating the motor vehicle.

2 The employee is then withheld from work, and is given
3 five days to resolve his or her license problem. If his or
4 her license remains suspended or revoked, he or she will be
5 dropped from SEPTA rolls of the Authority for lack of
6 qualifications.

7 We have done this on many occasions and the matter has
8 been grieved by the Unions. On many cases the Union
9 continues to arbitration and arbitrators have reinstated
10 employees with any back pay, which sometimes involves a great
11 period of time, so long as they prove at that time that they
12 have a current valid license.

13 In the event that an employee voluntarily discloses
14 that a problem exists with his or her licence, that employee,
15 if work is available, is dropped back to a job which they can
16 perform, a non-operating job, and that person is given 90
17 days to produce the valid driver's license. They will be
18 paid the lower rate of pay for the work they are performing.

19 We also utilize the same service from PennDOT to
20 validate the driver's license for new hire candidates prior
21 to their appointment.

22 I trust this overview of SEPTA's program and procedures
23 is helpful and I would be happy to answer any questions you
24 may have.

25 **REPRESENTATIVE MARKOSEK:** Thank you very much.

1 Just a couple things right off the top of my head -- it
2 seems the glaring difference between your testimony and the
3 previous testimony is that you randomly check driver's
4 license status far more often than the Port Authority does.
5 I think you said on a monthly basis.

6 WITNESS BIRNBRAUER: We do it every third Friday. I
7 didn't hear the previous testimony, so I don't know. We do
8 it every third Friday. Every third Friday we check --

9 REPRESENTATIVE MARKOSEK: That's for the license?

10 WITNESS BIRNBRAUER: -- for the licenses; that's
11 correct.

12 REPRESENTATIVE MARKOSEK: All operators?

13 WITNESS BIRNBRAUER: All operators, including
14 management.

15 REPRESENTATIVE MARKOSEK: You're mentioning that in
16 the event an employee voluntarily comes forward and says,
17 "Hey, I've been suspended," he is given a lesser job.

18 WITNESS BIRNBRAUER: That's correct.

19 REPRESENTATIVE MARKOSEK: How often will you tolerate
20 that, if an employee -- do they get one time to do that; what
21 if they get back in the bus and then come to you again a year
22 later and say, "I'm suspended again;" is there a limit to how
23 many times you'd tolerate that?

24 WITNESS BIRNBRAUER: We've never established a limit.
25 So long as -- we have to have a job available, and usually we

1 will. We have never set up a limit.

2 REPRESENTATIVE MARKOSEK: So, theoretically you could
3 have your license suspended four or five times and just
4 continue to go through this ping-pong of --

5 WITNESS BIRNBRAUER: We have never experienced that.

6 REPRESENTATIVE MARKOSEK: Well, it's kind of a
7 hypothetical -- hopefully, that person would be somehow
8 weeded out of the system.

9 Representative Preston?

10 REPRESENTATIVE PRESTON: You test 50 percent random
11 testing?

12 WITNESS BIRNBRAUER: Yes, sir. On an annual basis.
13 That's about 3,000 -- a little over 3,000 random tests per
14 year.

15 REPRESENTATIVE PRESTON: That's very high as compared
16 to most random testing in most companies.

17 WITNESS BIRNBRAUER: Yes. The UMTA regulations, when
18 they were put out had a scale of 50 percent testing, and that
19 was graduated over a period of time. Because of our accident
20 history, what got us before the Court -- and just prior to
21 that accident between the commuter rail cars -- in 1986 and
22 1987, we did have some accidents.

23 We tested people as a result of accidents. There was
24 one person who hit a tree; I could go through the litany of
25 about six or seven accidents that involved people who had

1 drug or alcohol events.

2 Because of that, we went right to the 50 percent
3 standard. We do our testing in-house; we have our own lab.
4 We do the data collection there and we send it out to --

5 REPRESENTATIVE PRESTON: Do you have your own
6 laboratory?

7 WITNESS BIRNBRAUER: We take the specimen there, yes,
8 and we send it out to have it analyzed.

9 REPRESENTATIVE PRESTON: Do you have an employee
10 assistance program?

11 WITNESS BIRNBRAUER: Yes, we do. It's a program that
12 one of the -- when we first inaugurated our drug testing
13 program we did not have one. That was one of the criticisms
14 of the Court that we don't have that. That was part of the
15 program that we had to add before he actually ruled.

16 REPRESENTATIVE PRESTON: So, if an employee comes to
17 you or goes through the process of saying, "I have a
18 problem," but has a good driver's license, what happens then?

19 WITNESS BIRNBRAUER: He is into rehabilitation. He
20 may be taken off the vehicle, but he is in rehabilitation; he
21 is treated as a sick employee. As soon as he is past his
22 rehabilitation, he has a test coming out of the rehab so that
23 he is clear and he goes back to the bus.

24 During that period that he is back on the bus, we have
25 15 months -- since he was a volunteer -- that he is monitored

1 by our rehabilitation process.

2 REPRESENTATIVE PRESTON: And you do say that this just
3 doesn't go for the drivers, this is for everybody whose job
4 requires them to have a driver's license?

5 WITNESS BIRNBRAUER: Everyone who has operating
6 privileges.

7 REPRESENTATIVE PRESTON: Thank you.

8 REPRESENTATIVE MARKOSEK: Representative Laughlin?

9 REPRESENTATIVE LAUGHLIN: Are these Federal
10 regulations or regulations through the Union or the
11 Authority?

12 WITNESS BIRNBRAUER: They're SEPTA regulations. Our
13 railroad, however, we are testing under the FRA which is in
14 place. Under the transit side, the regulations were repealed
15 under UMTA for lack of jurisdiction. That's what FTA is
16 currently doing, putting those back in.

17 It appears to be, they have had the Notice of Proposed
18 Rulemaking, which pretty much mirrors what we do with a few
19 exceptions. It's almost what we do with three drugs that
20 they don't include, but we test for, and just a few other
21 minor variations.

22 REPRESENTATIVE MARKOSEK: If there are no further
23 questions, Bob, we appreciate your coming all the way from
24 Philadelphia today to give this important testimony. It is
25 obviously an important issue for both SEPTA and the Port

1 Authority. We appreciate that very much.

2 WITNESS BIRNBRAUER: Thank you.

3 (Witness excused.)

4 REPRESENTATIVE MARKOSEK: The Local Transit Union is
5 here and next on the agenda is Larry Klos; he is accompanied
6 by John Remark. Larry and John represent the Union
7 employees, the drivers and mechanics, predominantly Port
8 Authority, and we certainly welcome your testimony here.

9 As I said to the others earlier this morning, I think
10 that the majority of employees are very good employees, and
11 hopefully, this will turn out to be just an aberration and
12 this problem is not indicative of the many hard working men
13 and women of the Port Authority.

14 Having said that, if you would like to go ahead,
15 please, Larry.

16 Whereupon,

17 LARRY KLOS

18 having been called as a witness, testified as follows:

19 DIRECT TESTIMONY

20 BY WITNESS KLOS:

21 Mr. Chairman, and members of the Committee, I would
22 like to thank you for the opportunity to speak here today.
23 My name is Larry Klos and I am the President/Business Agent
24 of the Amalgamated Transit Union, Local 85, which represents
25 over 2,600 hundred workers at the Port Authority Transit.

1 I started working for the Port Authority in November of
2 1967 as a bus driver. I drove buses up until 1979, then I
3 ran for Union office and have been re-elected ever since.

4 Local 85 does not condone any member using alcohol or
5 drugs and will never condone such action. Past record of
6 Local 85 members and Port Authority Transit will show that
7 there has never been a problem with alcohol or drugs in the
8 workplace.

9 Port Authority accident records will show that they are
10 one of the best transit agencies in the country for safe
11 operation per vehicle mile.

12 In 1979, a rehabilitation program was added to the
13 health care benefit, and in the very early '80s, Local 85 and
14 the Port Authority negotiated a basic Alcohol and Drug Policy
15 for employees at the Port Authority.

16 In 1990, Local 85 and Port Authority Transit re-
17 negotiated the present Alcohol and Drug Policy, which is
18 attached, for all Union members at the Port Authority. The
19 Alcohol and Drug Policy has been a model policy used by other
20 Union and transit agencies in Pennsylvania and other States.

21 On the Federal level, the Federal Transit
22 Administration, the FTA, and Federal Highway Administration
23 will issue comprehensive drug and alcohol testing regulations
24 providing for pre-employment, reasonable suspicion, random,
25 post-accident and return to duty follow-up testing.

1 These rules will apply for various transportation
2 employees in the urban mass transit, over-the-road and school
3 bus industries. These rules are to be submitted no later
4 than April 14, 1993, which of course, has passed.

5 History can show that alcohol and drugs in the bus
6 industry has never been a problem. Local 85 and Port
7 Authority Transit have acted very responsibly to the riding
8 public by having a safe transit system that Pittsburgh can be
9 proud of.

10 I am available for questions.

11 **REPRESENTATIVE MARKOSEK:** Thank you. I agree with
12 that statement. We heard earlier from Mr. Millar that you
13 have been cooperating with them on drug and alcohol, and it
14 is our understanding that Federal laws now will be changed to
15 allow for greater testing?

16 **WITNESS KLOS:** Yes, as I said, the FTA, in reference
17 to -- by April 14th, Joe, there had to be information handed
18 in to the Feds to make provisions in the law which will apply
19 to all transit workers in the bus industry. Before there
20 never was, Joe, and now there will be.

21 **REPRESENTATIVE MARKOSEK:** Will that be subject to
22 negotiation with the Union, or is this something that Port
23 Authority could, under this law, go ahead and install; what
24 would the Union's role be in establishing these testing
25 procedures?

1 **WITNESS KLOS:** As attached to my comments, Joe, there
2 is an Alcohol and Drug Policy which we negotiated in 1990.
3 If you look into that policy you will see that just about 90
4 percent of that policy right now mirrors the regulations that
5 the Feds are going to implement. About the only thing you
6 don't see in there is the random testing.

7 In reference to post-accident or and individual who has
8 had a problem, there is random testing. As the gentleman
9 before spoke, with our policy, that's up to 60 months, which
10 is five year. So, we will sit down with the Authority and
11 work that out.

12 **REPRESENTATIVE MARKOSEK:** Does your organization have
13 any kind of punitive regulations or procedures for drivers
14 that are found to violate Port Authority rules; for example,
15 the driver in question on this recent accident; besides the
16 Port Authority's penalties that they might have, whether he
17 loses his job or suspension, is there also Union penalties,
18 too; is he thrown out of the Union; is there anything like
19 that; is there an interdisciplinary situation?

20 **WITNESS KLOS:** No. As of right now, the Collective
21 Bargaining Agreement between the Port Authority and the
22 Union, if an individual is suspended or discharged, he has
23 rights to file grievances. Then the Union will give the due
24 process.

25 **REPRESENTATIVE MARKOSEK:** If he is found guilty of all

1 those things, then, he's no longer a driver, right?

2 WITNESS KLOS: I don't know all the results of the
3 investigation, Joe. They have not been really released to
4 the Union. Once that is all out, I presume the Authority is
5 going to take action. I'm not sure.

6 REPRESENTATIVE MARKOSEK: The testimony that was given
7 earlier this morning -- and again, it wasn't, perhaps, in as
8 detail as the Port Authority could be at this point, but do
9 you agree basically with their synopsis of that particular
10 incident?

11 WITNESS KLOS: I don't have all the details on that,
12 Joe. As the President of the Union -- the process would be
13 the Shop Steward, then it goes to the Business Agents, then
14 it comes on to my desk. Of course, there is a lot of rumors
15 going around, which is normal, but as of right now, I don't
16 have all that information.

17 REPRESENTATIVE MARKOSEK: Okay.

18 Representative Laughlin?

19 REPRESENTATIVE LAUGHLIN: I just want to ask you, in
20 your testimony you said you don't condone any member using
21 drug and alcohol, but are there any incidents of it?

22 WITNESS KLOS: Of members being found under the
23 influence?

24 REPRESENTATIVE LAUGHLIN: Yes.

25 WITNESS KLOS: Yes, there has been.

1 **REPRESENTATIVE LAUGHLIN:** What are the statistics on
2 it?

3 **WITNESS KLOS:** I don't have those numbers but --

4 **REPRESENTATIVE LAUGHLIN:** One percent, two percent,
5 three percent?

6 **WITNESS KLOS:** I don't have those numbers, ma'am.
7 Under the policy, the Authority has the right if an
8 individual is either under suspect with reference to their
9 behavior, things like that, the Authority has the right to
10 take that person to a lab, which was agreed upon by the
11 parties.

12 They can do the testing and then, after that, we will
13 do a follow-up to make sure that the specimen is sent to a
14 lab in Virginia, which was agreed upon by the Port Authority
15 and the Union, to do what they call a "conformitory test," to
16 make sure that the whole process is done right and that the
17 individual, if they had it in their system, that between the
18 two tests, it would show one way or another.

19 **REPRESENTATIVE LAUGHLIN:** Does the Union do the
20 testing, or the Authority?

21 **WITNESS KLOS:** The Union and the Company have agreed
22 on agencies to do that testing, and it is identified in the
23 policy. It shows who the agencies are.

24 **REPRESENTATIVE LAUGHLIN:** But the Union does not do
25 the random testing?

1 WITNESS KLOS: No, ma'am.

2 REPRESENTATIVE MARKOSEK: I want to thank you very
3 much for your testimony. We appreciate your coming out
4 today. I think of all the jobs that deal with the public,
5 next to legislator, bus driver has got to be one of the
6 toughest.

7 WITNESS KLOS: Thank you.

8 (Witness excused.)

9 REPRESENTATIVE MARKOSEK: Is Cindy Wells here?

10 MS WELLS: Yes.

11 Whereupon,

12 CINDY WELLS
13 having been called as a witness, testified as follows:

14 REPRESENTATIVE MARKOSEK: We have here Allegheny
15 County Transit Riders Group, I guess.

16 WITNESS WELLS: Right. It's Allegheny County Transit
17 Council.

18 DIRECT TESTIMONY

19 BY WITNESS WELLS:

20 My name is Cindy Wells. I am the President of the
21 Allegheny County Transit Council, which is the Citizens
22 Advisory Board to the Port Authority. I'm sorry I don't have
23 any written testimony today. I can provide that if you would
24 like that.

25

1 Mainly, what I am here to do is -- I am glad to see
2 that you are not trying to fix the blame; you're trying to
3 fix the problem, and talk about what can be done in the
4 future.

5 The main thing that ACTC was concerned about is, we
6 have asked that they have more frequent checks, and for PAT
7 to get on any kind of computer notification that is possible
8 through PennDOT --

9 REPRESENTATIVE MARKOSEK: Regarding licenses?

10 WITNESS WELLS: -- regarding the licenses. A lot of
11 my questions have been answered already. The main other
12 thing that ACTC was concerned about is the procedure for
13 handling complaints that the Port Authority uses.

14 It seems like, when you have any kind of incident like
15 this, or really in any circumstance, many times you will
16 hear, "Well, I knew that guy did this, and I knew that guy
17 did that." It would be nice if, for one thing, there was an
18 easy way to identify drivers, like having their name or their
19 driver number posted on the bus.

20 Then, if you had a complaint or a compliment, you could
21 identify that driver without having to know what the bus
22 number was, what time it was that you got on. One of the
23 problems that the Port Authority has is their complaint
24 office closes early, so, if you have a complaint after, I
25 believe it's 4:00 p.m., you can't get through to anybody

1 directly. You can put a message on the machine and they will
2 call you back later.

3 I know that personally, I have wanted to call about
4 something, and knowing that I wasn't going to be able to talk
5 to somebody right away, I put it off and then I just didn't
6 do it. That is one thing; it would be nice to be able to
7 make the complaint procedure a little bit easier to do.

8 Another thing is, we are a little bit concerned about
9 the rules and the procedures and the policies that are used
10 when there is an incident. We know that they have them, and
11 we know that they do use them.

12 In general, the Transit Council -- we are all riders
13 and we know what is going on on the buses. The vast majority
14 of drivers are good drivers. There's very few problems out
15 there. But there are guys that cause problems.

16 What we would like to see is to have the rules and the
17 policies be more known, rather than have them disappear into
18 a black box and you never hear anything about it.

19 Also, if a person submits a complaint to the Port
20 Authority, or a compliment for that matter, being able to
21 find out what comes out of it is important. I know a lot of
22 people have said, "Well, I have talked to the complaint
23 department," and have either received a reply or not.

24 It would be nice if everybody that took the time to
25 look up the number and talk to the Port Authority would get a

1 reply back from them, even if they weren't satisfied with the
2 reply, at least to know that their input was acknowledged.

3 That's basically all that I have to say.

4 REPRESENTATIVE MARKOSEK: Thank you. Just in summary,
5 from what it sounds like to me, the basic components of your
6 testimony are that, first of all, in your view, most drivers
7 are very good and do a very good job.

8 WITNESS WELLS: Right.

9 REPRESENTATIVE MARKOSEK: But the response to the
10 complaint procedure that Port Authority has is lacking. You
11 would like to see a better system for educating the public as
12 to what the rules and regulations are, as well as a better
13 response situation.

14 You call the Port Authority and get a recording or it
15 is very difficult to get through and don't feel like you have
16 really been heard. Is that correct?

17 WITNESS WELLS: I think that is a problem. I know
18 that people are very reluctant to call because they say, "Why
19 should I call; I'm not going to get through; nothing's going
20 to be done." I do know that the Port Authority does follow
21 up on things, but it would be nice to make the procedure
22 easier for the public to use.

23 The riders are out there and they see what is going on
24 on the buses, and if there is a problem, chances are, they
25 are going to see what the problem is as soon as, or even

1 before, the Port Authority does.

2 REPRESENTATIVE MARKOSEK: Representative Laughlin?

3 REPRESENTATIVE LAUGHLIN: Do none of the buses have
4 the names of the drivers on the buses?

5 WITNESS WELLS: To my knowledge, no. I have never
6 seen it.

7 REPRESENTATIVE LAUGHLIN: How about on their uniforms;
8 do they have their name?

9 WITNESS WELLS: They don't have their name. They do
10 have numbers on the uniform somewhere, but if they are
11 wearing a sweater, the numbers are not easily visible.
12 It would be nice if they could have them posted somewhere
13 standard.

14 I know that I have had reason, not to complain with the
15 driver, but with the condition of a bus now and then, and by
16 the time you get off the bus, and if your are going to a
17 meeting or something and you are not going directly home or
18 to an office where you have a phone, by the time you stop and
19 think about it, you may not remember exactly which bus you
20 were on.

21 At least with the bus you have the bus number and you
22 can call the next day and say whatever bus it was and tell
23 the problem. With the driver you would have to say, "Well, I
24 was on a 16C and it was somewhere around 6:00." The Port
25 Authority just can't track down the problem as easily without

1 having that information.

2 REPRESENTATIVE LAUGHLIN: I remember years ago when I
3 used to ride the bus, as soon as a new driver would come on,
4 the first thing he would do was put his name plate in the
5 bus. They don't do that anymore?

6 REPRESENTATIVE MARKOSEK: Was that Port Authority?

7 REPRESENTATIVE LAUGHLIN: Yes.

8 REPRESENTATIVE LAUGHLIN: The green buses. Remember
9 the Green Hornets?

10 REPRESENTATIVE MARKOSEK: That's before my time. I
11 remember some of those private companies that existed.

12 REPRESENTATIVE LAUGHLIN: I wish you would have given
13 your testimony before Mr. Millar, so that he would have heard
14 you, too. We will make sure that he does get the
15 information.

16 REPRESENTATIVE MARKOSEK: Bill Millar's able-bodied
17 right-hand man is in the room. He has duly noted the
18 testimony.

19 A question, Cindy, about your organization.

20 WITNESS WELLS: Sure.

21 REPRESENTATIVE MARKOSEK: How formal is it; are riders
22 aware; is it something that riders can join?

23 WITNESS WELLS: Yes, we try to have fliers put in the
24 buses, especially when we need members from a certain area.
25 We try to keep a geographic distribution, so that we have

1 input from all areas of the county.

2 When we need someone from a certain area, they will put
3 signs on the buses, put fliers in there so that people can
4 send in and get an application and join ACTC. That's the way
5 it works.

6 REPRESENTATIVE MARKOSEK: I was wondering, you
7 mentioned about distributing Port Authority policy to make
8 the riders better aware. Could your organization be of
9 assistance in doing that; is there a way that you would be
10 able to contact members or distribute information?

11 WITNESS WELLS: We would be happy to; yes, we could do
12 that. Something else, ACTC would welcome input from anybody
13 really, and especially from the Union. We don't get to talk
14 to them much, and we would welcome their input, too.

15 REPRESENTATIVE LAUGHLIN: Do you meet regularly?

16 WITNESS WELLS: Right. We have one general meeting
17 per month, which is usually on the third Thursday evening at
18 the Red Cross Building downtown, at 6:00. We also have an
19 executive committee meeting and various division committees.
20 For each of the Port Authority's bus garages we have a
21 division committee that belongs to that area.

22 Plus, we have standing committees that work on areas
23 like the budget, public relations, operations, planning. It
24 is sort of lined up with the way the Port Authority's
25 divisions are. They meet approximately monthly.

1 **REPRESENTATIVE LAUGHLIN:** How long has this been in
2 operation?

3 **WITNESS WELLS:** Since about 1984.

4 **REPRESENTATIVE LAUGHLIN:** What was the reason that it
5 was started?

6 **WITNESS WELLS:** To get more citizen input, more rider
7 input to the Port Authority.

8 **REPRESENTATIVE LAUGHLIN:** How do you raise your funds?

9 **WITNESS WELLS:** We really don't spend anything.

10 **REPRESENTATIVE LAUGHLIN:** You don't?

11 **WITNESS WELLS:** No, the Port Authority takes care of
12 our mailing of our meeting notices and the meeting room.
13 Basically, we really haven't spent anything.

14 **REPRESENTATIVE LAUGHLIN:** So, you have a lot of
15 cooperation with them?

16 **WITNESS WELLS:** Yes, we do.

17 **REPRESENTATIVE LAUGHLIN:** Do you have a large
18 membership

19 **WITNESS WELLS:** We are limited under our By-laws to 60
20 members. Right now, we are around 52, I think; we are down a
21 little bit.

22 **REPRESENTATIVE LAUGHLIN:** Thank you.

23 **REPRESENTATIVE MARKOSEK:** Are there members of the
24 Port Authority or the Port Authority Board that are part of
25 your organization?

DIRECT TESTIMONY

1
2 BY WITNESS WILLIAMS:

3 I have to say, Mr. Chairman, before I begin my formal
4 comments this morning that I, like Mr. Millar, am pleased to
5 be here this morning. Unfortunately, it's an unfortunate
6 incident by which we are called to Pittsburgh today.

7 As Deputy Secretary for Administration, I have
8 oversight responsibilities for our personnel and budget and
9 alike. Paul Parsells sees me periodically on budget matters,
10 but Secretary Yerusalim doesn't like me to see the light of
11 day, and it's a rare opportunity that I have to come before
12 these types of forums.

13 Unfortunately, I would like to be here on a more
14 pleasant note, but that's not possible. I also will note,
15 since I am involved in the budget, as Bill Millar did, I
16 would like to express my appreciation to the legislature for
17 their very timely passage of the budget.

18 I can remember in past years scurrying around trying to
19 figure out how we were going to pay employees after July 1st.
20 We have all agonized over that.

21 We're also delighted -- and I know there are some Union
22 people here -- to have a new contract which is in the process
23 of being ratified with our Bargaining Unit, the American
24 Federation of State, County, and Municipal Employees. We are
25 doubly pleased that we have a budget and a new contract in

1 place, effective July 1st.

2 My prepared comments -- let me just begin and I will
3 try to interject any information that I can as I go through
4 it. These just came off the press; I haven't even had a
5 chance to really correct any typos or any other errors in it.

6 As was indicated earlier, my name is Parker Williams,
7 Deputy Secretary for Administration with the Pennsylvania
8 Department of Transportation in Harrisburg, Pennsylvania.

9 Unfortunately, due to personal matters, Mr. Henry
10 Nutbrown, our Pittsburgh area District Engineer is unable to
11 be with us today. I am joined by the District's Personnel
12 Officer, Mr. Ralph Gillium and Mr. David Barber, Manager of
13 Capital and Safety Programs with the Department's Bureau of
14 Public Transportation in Harrisburg. I do have some opening
15 comments, after which we will try to answer any questions you
16 may have.

17 First, it is indeed unfortunate that, despite our
18 efforts to ensure that our employees have good driver
19 records, and operate Department vehicles within the limits of
20 the law, that on the afternoon of Friday, May 21st in
21 Swissvale, an assistant maintenance manager assigned to our
22 Allegheny County Maintenance Organization crashed into the
23 back of a school bus, injuring 16 people, including 14
24 students.

25

1 The Department acted swiftly to gain as many facts as
2 it could about the cause of the accident, and with just
3 cause, suspended, without pay, the operator of the vehicle,
4 Mr. Charles Rullo, before he returned to work the Monday
5 following the accident.

6 The Department has conducted its own investigation into
7 the accident, and based in part on the results of blood
8 alcohol tests ordered by the police, the results of which
9 indicate Mr. Rullo was operating the vehicle while under the
10 influence of alcohol, Mr. Rullo has been terminated from his
11 position as assistant maintenance manager.

12 Mr. Chairman, to preserve Mr. Rullo's rights to privacy
13 and his legal rights, the specifics of the investigation will
14 not be made public.

15 This incident is an example of how drinking and driving
16 continues to be a leading cause of traffic deaths and
17 injuries in Pennsylvania despite our efforts to educate
18 drivers that driving and drinking is a deadly combination.

19 At the recent Capitol-For-A-Day closing ceremonies in
20 Hazleton, Governor Casey reported some good news. In 1992,
21 116 less people lost their lives in traffic deaths on
22 Pennsylvania's highways. This is a 7 percent decline from
23 the previous year.

24 He also pointed out that traffic deaths have fallen 23
25 percent since 1987. "Death and injury on Pennsylvania's

1 highways are on the decline," Governor Casey said. "We've
2 improved the safety of our roads, fostered the use of
3 seatbelts and other safety practices, and worked to raise
4 public awareness about the dangers of drunk driving. But any
5 loss of life is tragic," the Governor went on to say, "and
6 sadly, drunken drivers are primarily to blame."

7 The Governor announced his endorsement of a six-part
8 legislative package to deal with drunk driving and other
9 measures to make Pennsylvania's roads safer. The package
10 takes particular aim at drunk driving.

11 The package would: reduce the legal limit for blood
12 alcohol content for drivers from the current .10 percent to
13 .08 percent; allow police officers to take suspected drunken
14 driver's licenses prior to a Court hearing under a procedure
15 known as "Administrative License Suspension."

16 The package would set a "Zero Tolerance Policy" for
17 under-age drinking by establishing the blood alcohol content
18 limit for under age drivers at .02 percent.

19 Other parts of the package include making failure to
20 wear a seat belt a primary offense. Currently, drivers and
21 front-seat passengers must be cited for another violation
22 before a seat-belt violation can be recorded.

23 The package would allow police to cite drivers of
24 vehicles registered in other States for failure to properly
25 secure a child. Currently, police may cite only those

1 vehicles registered in Pennsylvania.

2 Finally, the package would prohibit the use of radar
3 detectors in commercial vehicles.

4 Mr. Chairman, I urge the House Transportation
5 Committee's support of these measures designed specifically
6 to reduce further the injuries and death caused by drinking
7 and driving.

8 Now, let me turn to the PennDOT driver safety issue.
9 The Department has a number of policies dealing with driver
10 safety, particularly as it relates to operating Department
11 vehicles under the influence of alcohol or other controlled
12 substances.

13 These are policies directed by the order of the
14 Governor, and in this case, the Governor's Code of Conduct;
15 policies are based on State and Federal law; and internal
16 PennDOT policies.

17 Most of our drivers operate commercial motor vehicles
18 covered by the requirements of the Commercial Motor Vehicle
19 Safety Act of 1986 and companion State legislation in
20 Pennsylvania's Vehicle Code.

21 These are predominately vehicles which weigh over
22 26,000 pounds. Unlike the transit industry, PennDOT drivers
23 do not drive mass transit vehicles.

24 The Commercial Motor Vehicle Laws include the following
25 requirements: set a .04 percent blood alcohol level where an

1 operator is considered to be driving under the influence of
2 alcohol. In other words, they are legally considered to be
3 driving under the influence at that threshold level.

4 The Law requires covered employees to notify their
5 employers when convicted of any moving violation -- and that
6 has to occur, I believe within 30 days -- or when their
7 license is suspended or revoked, which has to occur the
8 business day following the day that they are officially
9 notified of the suspension or revocation.

10 The Law requires that employers cannot knowingly allow
11 a covered employee to operate a vehicle without a valid
12 license. I might add, at this time, that both State and
13 Federal law provides fairly strict criminal and civil
14 penalties for failure to meet any one of these three
15 provisions.

16 In addition, the Department also provides extensive
17 safety training programs for its employees, including
18 defensive driving. It also conducts post-accident
19 investigations involving Department employees, which may
20 result in disciplinary action being taken against the
21 employee.

22 Mr. Chairman, one of our primary safety concerns is the
23 exposure of our highway equipment operators and laborers to
24 death and injury while working on the job.

25

1 Statistically, being a PennDOT maintenance employee is
2 likely the most dangerous occupation for a State employee.
3 Over the past six years, 11 PennDOT employees have lost their
4 lives in the line of duty. In addition, over 300 PennDOT
5 employees incur lost-time injuries on the job each year.

6 Many of the fatalities, and most of the severe injuries
7 are caused by vehicle intrusions into our work zones. Public
8 awareness programs like the "Give 'em a Break" Program, which
9 urges motorists to slow down in construction work zones, and
10 enforcement efforts by the State police, who regularly
11 control our work zones are specifically intended to protect
12 the traveling public and our workers from injury and death.

13 The good news is, that with these efforts and the
14 commitment Governor Casey and Secretary Yerusolim have made
15 to highway safety, the fatalities and injuries to our highway
16 workers are declining.

17 Mr. Chairman, I would like to conclude my comments by
18 turning to the Department's role in transit safety. The
19 National Transportation Safety Board, in 1990, recommended
20 that the Commonwealth initiate a Transit Safety Oversight
21 Program.

22 In its fiscal year 1991-1992 budget, PennDOT requested,
23 and the Governor and Legislature approved a \$340,000
24 appropriation to begin a transit safety oversight initiative.

25

1 Designed to supplement our Transit Vehicle Safety
2 Inspection Program, which was in place prior to the date of
3 that appropriation, this initiative focuses on SEPTA and PAT,
4 and includes review of their systems safety program plan on
5 fixed guideway systems, including subways, trolleys and
6 busways.

7 PennDOT competitively selected ICF/Kaiser Engineers as
8 its safety oversight contractor in the Fall of 1991. Since
9 then, the contract has been extended as the Governor and
10 Legislature approved continued funding of \$323,000 in the
11 current year. I might add that the 1993-1994 budget also
12 includes another continuing appropriation for that transit
13 oversight effort.

14 Kaiser, working with the Department and officials from
15 SEPTA and PAT, has performed its initial safety review and
16 has issued a number of findings that the transit operators
17 are now addressing.

18 By working together with the contractor and transit
19 operators, the Department hopes to improve the overall safety
20 of the State's two largest transit systems.

21 The recent incident involving a PAT bus driver was
22 unfortunate, given the injuries involved, but it is not
23 reflective of what the Department believes to be a good
24 overall safety program at the Port Authority.

25

1 Mr. Chairman, that concludes my comments and I'll be
2 happy to try and answer any questions.

3 **REPRESENTATIVE MARKOSEK:** Thank you, Parker. You
4 mentioned here towards the end of your testimony that your
5 consultant, ICF/Kaiser, has performed an initial safety
6 review and has issued a number of findings. Can you make
7 those available to us?

8 **WITNESS WILLIAMS:** Mr. Chairman, we could and we would
9 be happy to. I guess the difficulty -- and I have talked to
10 some legal people about this, and I don't want to hide behind
11 a cloak of there being findings in there that we don't want
12 to make available to you.

13 In an audit oversight function, if you make those
14 findings available in the public arena, it kind of defeats
15 the cooperative spirit that you are trying to achieve in the
16 Department, working with whoever the audit oversight is
17 occurring with.

18 I believe that we can make those reports available to
19 you; however, before we do so, I would like to check with the
20 attorneys to make sure that there isn't some reason why we
21 shouldn't do so.

22 **REPRESENTATIVE MARKOSEK:** That's not the first time
23 I've had somebody say, "I'll have to check with the
24 attorney."

25 **WITNESS WILLIAMS:** Yes, unfortunately, in my years

1 with the Department, I have learned to say that.

2 **REPRESENTATIVE MARKOSEK:** Earlier this morning, Port
3 Authority testified that they were going to ask PennDOT to
4 cooperate in a system of notification of drivers that had
5 been suspended.

6 Of course, it probably really comes down to a question
7 of setting up the computer in such a way that when a
8 commercial driver is suspended, in order to let the employer
9 know automatically that he is suspended. Is that something
10 that you can do now; is it something that you've discussed
11 with the Port Authority, or with SEPTA or anybody else?

12 **WITNESS WILLIAMS:** Technically that is feasible.
13 We've now for several years, as a result of the Commercial
14 Motor Vehicle Safety Act, have been performing driver checks
15 for various commercial operators throughout the State of
16 Pennsylvania.

17 They take various forms. The form that SEPTA uses is
18 the one that I think is preferred. They exchange a tape --
19 and I think the people from SEPTA described it earlier --
20 exchange a tape with the Department. We exchange a tape back
21 with them; it gives them all of the information that they
22 need.

23 The Port Authority has a different technique. They
24 come through the State Police with what is called the Cleans
25 Network and they input the driver license number and obtain

1 information back through that system.

2 We believe that the system that SEPTA is using is the
3 preferred system. If all the transit operators -- and we
4 would be very willing to do this -- would exchange tapes with
5 us on a frequent basis -- I think in the case of SEPTA it's
6 every week -- we think that that will avoid the technical
7 costs which could be as much as a half-million dollars, I am
8 told, to begin to collect employer identification
9 information, and tie that to whoever the commercial motor
10 vehicle operator is.

11 When a suspension hits, the computer's going to kick
12 out a notice; we've got to mail it to the individual; we've
13 got to keep an address-change file as these operators move
14 from one employer to another.

15 We think that the system that we currently have in
16 place will serve the needs of the Commercial Motor Vehicle
17 Industry in Pennsylvania without the need to have to spend
18 that level of funding on changing our computer systems.

19 REPRESENTATIVE MARKOSEK: You're publicly recommending
20 then, that the Port Authority should adopt a similar program
21 that SEPTA does in relationship to checking licenses?

22 WITNESS WILLIAMS: Yes, and I talked to Mr. Millar,
23 and certainly we are open for any modifications, even to the
24 SEPTA system, which may work better for him.

25

1 The idea of, for over 100,000 commercial motor vehicle
2 operators in Pennsylvania initiating that type of system --
3 you folks are well aware of the complexity of our computer
4 systems in Harrisburg -- that would neither be timely, nor
5 would it be cheap.

6 **REPRESENTATIVE MARKOSEK:** A similar question that I
7 asked the Port Authority this morning in regards to the
8 history of your operators having problems -- are there
9 statistics available in terms of operators that had suspended
10 licenses and/or DUI types of problems in the past; what are
11 the statistics on drivers that have voluntarily come to you
12 and said, "I've been suspended;" and do you have a program,
13 as does SEPTA, whereas if a driver comes to you and says,
14 "I've been suspended; I can no longer operated a vehicle," is
15 he given some other position while that suspension is being
16 served?

17 **WITNESS WILLIAMS:** Yes. Very, very early on, as a
18 result of the requirements of the Commercial Motor Vehicle
19 Safety Act that I outlined earlier -- that is, that drivers
20 must come forward, under the law, and notify us of
21 suspensions -- we initiated with our Bargaining Unit an
22 agreement which has been in place now for several years.

23 Basically, what the agreement says is, if you are an
24 employee who must be licensed to drive a Department motor
25 vehicle, whether it be a commercial motor vehicle or non-

1 commercial motor vehicle, or whether you be a manager or a
2 rank and file labor contract-covered employee, we encourage
3 you to come forward with any violations or suspensions that
4 have occurred.

5 If you do so, and if it is your first instance of
6 suspension, we will -- and we have a number of opportunities
7 available in the Department that the Transit Industry does
8 not -- we can move them back and demote them, with a cut in
9 pay, to a laboring type of position during the course of the
10 suspension.

11 After we verify that their license has been restored,
12 we will promote them back to their equipment-operating
13 position and fully restore their privileges.

14 Having said that, however, we also have in that
15 agreement that multiple suspensions will subject the employee
16 to disciplinary action up to and including termination. For
17 probationary employees, we may not even accept the first
18 instance of a suspension.

19 I might add that under the Governor's Code of Conduct,
20 that any employee in the Commonwealth that is charged with
21 criminal activity that is determined to be work-related, if
22 they are charged they are suspended; if they are convicted,
23 they are fired.

24 So, in the case of an individual like Mr. Rullo, who in
25 a work-related capacity is operating Department equipment

1 legally under the influence of alcohol or a controlled
2 substance, under the Governor's Code of Conduct we will
3 terminate those types of individuals.

4 **REPRESENTATIVE MARKOSEK:** The incident that occurred
5 -- and I know you have testified here that there are some
6 confidentiality situations -- but perhaps you could tell us,
7 was this a first incident for that particular driver in terms
8 of driving under the influence, or was this a second offense,
9 or third offense?

10 **WITNESS WILLIAMS:** The local media has documented in
11 their story a previous incident of driving under the
12 influence involving Mr. Rullo, and I will verify that, in
13 fact, that had occurred.

14 I have to tell you that his work history, in this case,
15 in part contributed to the action that has been taken against
16 him.

17 **REPRESENTATIVE MARKOSEK:** That previous incident, was
18 that also while operating a PennDOT vehicle, or was that
19 operating a personal vehicle?

20 **WITNESS WILLIAMS:** I don't know all of the facts of
21 the case. I know that the individual was suspended; I know
22 that he appealed the suspension to the Civil Service
23 Commission. We were upheld, but there was an issue as to
24 whether that was a work-related driving under the influence.
25 That's why the Governor's Code of Conduct did not apply in

1 that case.

2 REPRESENTATIVE MARKOSEK: Well, was it in a PennDOT
3 vehicle?

4 WITNESS WILLIAMS: It was not in a PennDOT vehicle; it
5 was in his personal vehicle.

6 REPRESENTATIVE MARKOSEK: Was there any indications by
7 his immediate supervisor -- he is the supervisor; is that
8 right?

9 WITNESS WILLIAMS: He is an assistant maintenance
10 manager responsible for a number of foreman out of the
11 Monroeville stockpile.

12 REPRESENTATIVE MARKOSEK: Would there have been
13 somebody at that site that would have been supervisory to
14 him, or was he the top man, and therefore, could only be
15 reported by underlings if they had some indication that
16 perhaps he was under the influence?

17 WITNESS WILLIAMS: Well, as you know, we have a 41,000
18 mile highway system. These assistant maintenance managers
19 have extensive roadway responsibilities. They are in these
20 vehicles all day long. During the winter months when it
21 snows, they could be in these vehicles all night long.

22 They are responsible for getting the work done. They
23 don't punch a clock; we don't call them every five minutes.
24 Really, they are free to determine their own work schedule.

25

1 Certainly, there is a county manager that Mr. Rullo
2 reports to, but there are other assistant managers. I cannot
3 say during the course of the day that Mr. Rullo would be seen
4 by supervisors. He may have, in fact, been seen by
5 subordinates.

6 **REPRESENTATIVE MARKOSEK:** Has there been any other
7 instances of drug or alcohol abuse at the Monroeville site?
8 I have a particular interest in that because I live in
9 Monroeville and represent that area.

10 **WITNESS WILLIAMS:** I can ask Mr. Gillium to respond to
11 that question if he has any knowledge of that.

12 **WITNESS GILLIUM:** At the present time, I really have
13 no formal knowledge of any specific incidents involving that.
14 We certainly would investigate it if it was the case, and
15 would take appropriate action where we could prove it.

16 **REPRESENTATIVE MARKOSEK:** I would like to know because
17 I represent Monroeville, but just for the sake of the general
18 public, as well, if there had been any other incidents out
19 there at the Monroeville site of drug or alcohol abuse. I
20 think that if there had, that puts a different light on the
21 whole incident.

22 **WITNESS WILLIAMS:** Again, we think with this work-
23 related disciplinary action that we take, we think that it
24 provides sufficient deterrent to people, given the prospect
25 of losing their position.

1 However, that is not to say that like any individual in
2 the general public, that these people are not consuming
3 alcoholic beverages or controlled substances either in the
4 workplace or on their own private time.

5 We have had incidents of this across the State in
6 various locations. We have had to invoke the procedure that
7 I had indicated to you earlier on demoting people and
8 restoring them. We've had to take disciplinary action.

9 We have a work force of some 12,300 employees, of which
10 about 9,000 of them are based in every county in
11 Pennsylvania. So, our exposure is large and I will tell you
12 that there have been incidents like this.

13 Are they abnormal; are we concerned? We are concerned
14 about anybody driving these vehicles in that state, but I
15 don't believe that we have an abnormal problem with it.

16 REPRESENTATIVE MARKOSEK: Before I let Representative
17 Laughlin ask some questions, I would just like to reiterate
18 that I personally have not had any problems with PennDOT. In
19 fact, my association with PennDOT has been very positive. I
20 think they've done a very good job in our area out in the
21 Monroeville/Murraysville area in upgrading roads, etcetera.

22 We have not had complaints of this nature before, and
23 it's unfortunate that these incidents have occurred, but on
24 the other hand, perhaps it's an opportunity for us to help
25 make the system better.

1 **WITNESS WILLIAMS:** One comment, if I might,
2 Mr. Chairman. As I said earlier in my testimony, we have a
3 two-fold safety concern here. We obviously are concerned
4 when our drivers are involved in accidents that affect the
5 motoring public or others.

6 You have to realize also that we have a huge exposure
7 out there. It is a very dangerous job, and much of our
8 safety programs are designed to reduce our exposure to the
9 public in accidents.

10 Most of the disabling injuries and fatalities that
11 occur in PennDOT are not to the public, but to our own work
12 force where the public is intruding into our work zones and
13 killing or severely injuring our employees.

14 **REPRESENTATIVE MARKOSEK:** Probably often the public is
15 under the influence when they are hitting PennDOT employees.

16 **WITNESS WILLIAMS:** That has occurred. There have been
17 any number of cases like that, yes.

18 **REPRESENTATIVE MARKOSEK:** Representative Laughlin?

19 **REPRESENTATIVE LAUGHLIN:** First, I would like to say
20 that the PennDOT employees in Beaver County did a fantastic
21 job of cleaning up the snow during the blizzard of '93. I
22 know they worked very hard and long, and they did a fantastic
23 job.

24 We do have some problems thought, with the roads, and I
25 get very good cooperation from PennDOT, so I am very happy to

1 say that they have cooperated with me.

2 I know that there are very strict rules for the
3 residents who live in Pennsylvania concerning DUI. Many
4 times, people will come to our office with their problems.
5 As soon as they mention DUI, we tell them there is nothing we
6 can do to help them.

7 I am glad that PennDOT employees are under that same
8 guidelines as the people in the Commonwealth. Probably, they
9 are even more strict. I am happy for that.

10 I saw in here that the investigation of Mr. Rullo will
11 not be made public. What is the reason for that, since, you
12 know, he is a PennDOT employee; why wouldn't we be given the
13 facts of what happened in the investigation?

14 WITNESS WILLIAMS: Well, there's three reasons. First
15 of all, Mr. Rullo has certain legal rights. He has been
16 charged with criminal activity. There may be civil case that
17 will occur, where he will have to defend himself.

18 He himself was hurt in the accident, which could
19 generate some liability on the Department's part,
20 potentially. There was a passenger in his vehicle who was
21 injured.

22 There are attorneys already involved, and for me to
23 reveal detailed results of our investigation, I think, would
24 expose the Department or even expose Mr. Rullo and deny his
25 rights to privacy and his ability to be represented by

1 counsel.

2 REPRESENTATIVE LAUGHLIN: So, we will hear all of this
3 whenever the trial is on?

4 WITNESS WILLIAMS: Certainly, as it moves through the
5 Courts, that information does become public.

6 Mr. Chairman, I would be willing to make available to
7 the Committee Chairman some details on this accident. It's
8 the public domain that we are concerned about.

9 REPRESENTATIVE MARKOSEK: I'm sorry?

10 WITNESS WILLIAMS: It's making the information
11 available in the public domain that we are concerned about,
12 and it potentially adversely affecting either Mr. Rullo's
13 rights or the Department's rights to defend itself here.

14 REPRESENTATIVE MARKOSEK: We appreciate that and
15 certainly, if you could supply us with some of the statistics
16 that we asked for -- similar ones that we asked the Port
17 Authority in terms of --

18 WITNESS WILLIAMS: A five-year period, I think, is
19 what I heard.

20 REPRESENTATIVE MARKOSEK: Yes. Five-year, if that's
21 available. You know, incidents of drug abuse, suspended
22 license, an employee voluntarily coming and saying, "I've
23 been suspended;" those kinds of things.

24 WITNESS WILLIAMS: Absolutely. We can make that
25 information available to you.

1 REPRESENTATIVE MARKOSEK: Thank you.

2 (Witnesses excused.)

3 REPRESENTATIVE MARKOSEK: Having nothing more, and no
4 other people scheduled to speak today, I would like to thank
5 first of all, all of our folks that did testify. It was very
6 enlightening; I learned a lot, I know, and I think my
7 colleagues did, too.

8 Again, I would like to thank Duquesne Light for their
9 use of this fine facility, and just in closing say, that what
10 I intend to do is take this information and issue some
11 recommendations to both Port Authority and PennDOT and the
12 Legislature. Certainly, we will work with both entities in
13 trying to make for a better system.

14 I want to thank you all today for attending.

15 (Whereupon, at 11:35 a.m., the hearing was concluded.)

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I hereby certify, as the stenographic reporter,
that the foregoing proceedings were reported by me and
thereafter reduced to typewriting by me or under my
direction; and that this transcript is a true and accurate
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