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One Hundred Eighth Congress
U.S. House of Representatives
Select Committee on Homeland Security
Washington, DC 20515

March 31, 2004

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CHIEF COUNSEL AND
POLICY DIRECTOR

The Honorable Tom Ridge
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Mr. Secretary:

We are writing to express our concern about the preparedness of our nation's passenger trains and public transit¹ systems against terrorist attacks. On March 11, 2004, an al Qaeda bombing of commuter trains in Madrid, Spain killed nearly 200 people and wounded more than 1,500 others. A minor fire incident in Washington, D.C.'s subway system recently gave us a glimpse of the potential for disruption to our public transit systems. Failure to invest in the security of passenger rail and public transit could leave these critical systems vulnerable to terrorist attack. Millions of Americans rely on mass transit systems on a daily basis. Making these systems as safe as they can be from terrorist attacks must be a high priority for the Department of Homeland Security (DHS).

Although a terrorist attack similar to the Madrid attacks or frequent bus bombings in Israel have yet to occur in the U.S., the threat is real and chances of success are high. Fully one-third of terrorist attacks worldwide target transportation systems, and public transit is the most frequent target.² Between 1997 and 2000, more than 195 terrorist attacks occurred on surface transportation systems worldwide.³ There are over 140,000 miles of train routes in the U.S., 500 Amtrak stations, and 500 major urban transit operators. Nearly nine billion passenger trips are taken on U.S. mass transit systems every year.⁴ Since the attacks of September 11, the U.S. Department of Transportation (DOT) and the Federal Bureau of Investigations have warned transit and other railroad systems of possible terrorist strikes. In April, 2003, such warnings were validated when it was revealed that Khalid Sheik Muhammed, one of Osama bin Laden's chief

¹ Passenger rail and public transit includes include motor coach (i.e. intercity bus); inter-city rail; and transit (buses, subways, ferry boats, and light rail).

² Congressional Research Service, "Transit Security," memo to Homeland Security Committee Democratic staff, August 28, 2003.

³ U. S. General Accounting Office, *Transportation Security: Federal Action Needed to Help Address Security Challenges*, GAO-03-843, (Washington, D.C.: GAO, June 2003), 7.

⁴ American Public Transportation Association, 2000 ridership data.

lieutenants, told his interrogators that al Qaeda had plans to attack the metro system in Washington, D.C.

To date, the federal government has not taken strong enough action to respond to the threat to passenger rail and public transit. In 2003, the General Accounting Office (GAO) recommended that DHS's Transportation Security Administration (TSA) and the DOT "develop a risk-based plan that specifically addresses the security of the nation's rail infrastructure" and "establish time frames for implementing specific security actions."⁵ Such a plan has still not been developed, and progress on this front has been limited because responsibilities for transit security are still fragmented and confused. According to GAO, the roles and responsibilities of the TSA and the DOT "have yet to be clearly delineated, which creates the potential for duplicating and/or conflicting efforts as both entities move forward with their security efforts."⁶ Further, "DOT and TSA have not yet formally defined their roles and responsibilities in securing all modes of transportation."⁷ To address the problem, GAO recommended that DHS and DOT enter into a memorandum of agreement to "define and clarify each entity's role and responsibilities in transportation security matters."⁸ DHS and DOT disagreed with the recommendation⁹ and thus far have failed to clearly define their roles and responsibilities.

Within the TSA, the security of passenger rail and public transit has been, at best, an afterthought. For this fiscal year, the TSA is currently spending \$4.4 billion for aviation security, but only \$10 million was dedicated to passenger rail or public transit security. In the Administration's fiscal year 2005 budget request, funding for anything other than aviation security is less than three percent – or only \$147 million – of TSA's total budget. Of this, no funds are requested specifically for passenger rail or transit security. This is troubling when five times as many Americans travel on passenger trains and public transit each day compared to those that travel on planes.¹⁰ It is also troubling because Congress created the TSA to protect all modes of transportation. Yet, the GAO has stated that while TSA has "started development of overall intermodal transport security plan, [it] has not developed specific plans to address the security of individual surface transportation modes, including rail, and does not have time frames established for completing such an effort."¹¹ As Representative Harold Rogers, Chairman of the House Homeland Security Appropriations Subcommittee stated at a recent hearing regarding TSA's budget request for next fiscal year, "Congress did not form TSA to

⁵ U. S. General Accounting Office, *Rail Safety and Security: Some Actions Already Taken to Enhance Rail Security, but Risk-based Plan Needed*, GAO-03-435, (Washington, D.C.: GAO, April 2003), 33.

⁶ U. S. General Accounting Office, *Transportation Security: Federal Action Needed to Help Address Security Challenges*, GAO-03-1154T (Washington, D.C.: GAO, September 9, 2003), 3.

⁷ U. S. General Accounting Office, *Transportation Security: Federal Action Needed to Help Address Security Challenges*, GAO-03-1154T (Washington, D.C.: GAO, September 9, 2003), 18.

⁸ U. S. General Accounting Office, *Transportation Security: Federal Action Needed to Help Address Security Challenges*, GAO-03-1154T (Washington, D.C.: GAO, September 9, 2003), executive summary.

⁹ U. S. General Accounting Office, *Transportation Security: Federal Action Needed to Help Address Security Challenges*, GAO-03-1154T (Washington, D.C.: GAO, September 9, 2003), executive summary.

¹⁰ Amanda Ripley, "America's Risky Rails: Why the government is investing so much in airline security while leaving trains vulnerable," *Time*, March 22, 2004.

¹¹ U. S. General Accounting Office, *Rail Safety and Security: Some Actions Already Taken to Enhance Rail Security, but Risk-based Plan Needed*, GAO-03-435, (Washington, D.C.: GAO, April 2003), 3.

exclusively handle aviation security, but as an administration that oversees and enhances security for all modes of transportation. Your budget continues to marginalize these other efforts.”¹²

According to a GAO survey and interviews with transit officials nationwide “insufficient funding is the most significant challenge in making their transit systems as safe and secure as possible.”¹³ In fact, survey respondents were more than 2.5 times more likely to cite insufficient funding as the main impediment to security relative to any other factors.¹⁴ Yet, the Department of Homeland Security has provided only \$115 million in grants to public transit systems for security upgrades, and the majority of the grants have gone to only five metropolitan areas. Amtrak’s identified security needs also have been largely unmet. There are no dedicated funds in the Department’s fiscal year 2005 budget for passenger rail and public transit security.

On March 22, 2004, you announced a series of rail and transit security initiatives and pointed to achievements in improving rail and transit security since 9/11.¹⁵ While these initiatives are welcome, we feel strongly that on all fronts -- policy, DHS leadership, and funding -- the measures you described do not come close to addressing the potential threats to our critical passenger rail and public transit systems.

Key components of the initiatives announced on March 22, 2004 by DHS are a transit K-9 program, transit inspection pilots, assistance with public education and awareness, and research and development for biological, chemical and high explosives countermeasures. These initiatives provide no additional funds for passenger rail and transit security. The K-9 program is the only initiative with the possibility of near term benefits, and while helpful, it fails to address most of the security investments that both major transit authorities and Amtrak have identified as their most urgent needs. None of the other initiatives provide any additional protective measures right now. The pilot program for baggage screening addresses only a narrow slice of the transit and rail infrastructure,¹⁶ and it will have no immediate benefit on security nationwide. For employee and public awareness campaigns, DHS is largely relying on industry and Federal Transit Administration (FTA) efforts and will “create new programs” only “where necessary.”¹⁷ Finally, only a very small portion of the research and development funds cited will be used for rail and transit security and any benefits will not be seen before 2006.

¹² Hearing of the House Appropriations Committee, Subcommittee on Homeland Security. March 11, 2004.

¹³ U. S. General Accounting Office, *Mass Transit: Federal Action Could Help Transit Agencies Address Security Challenges*, GAO-03-263, (Washington, D.C.: GAO, December 2002), 2.

¹⁴ U. S. General Accounting Office, *Mass Transit: Federal Action Could Help Transit Agencies Address Security Challenges*, GAO-03-263, (Washington, D.C.: GAO, December 2002), 12.

¹⁵ DHS, “Rail and Transit Security Initiatives Fact Sheet,” March 22, 2004.

¹⁶ DHS, “Rail and Transit Security Initiatives Fact Sheet,” March 22, 2004: “The initial program will be implemented at one station with commuter rail service in conjunction with Amtrak and the Federal Railroad Administration.”

¹⁷ DHS, “Rail and Transit Security Initiatives Fact Sheet,” March 22, 2004.

The Department's timid efforts to increase the security of our passenger rail and public transit systems are unacceptable. Our initial estimates, based on GAO surveys¹⁸ of eight large cities, plus interviews and briefings with public transit operators in Washington, D.C. and the New York city area, as well as Amtrak officials, suggest that addressing the most pressing security needs for public transit in our 50 largest metropolitan areas and for Amtrak would cost approximately \$2 billion. The Administration should include a down payment of at least \$250 million (five times the grants provided by the Department to mass transit in 2004) to begin the process of providing adequate security to the millions of Americans that use our transit and passenger rail systems daily.

In particular, we believe that the Department should:

- 1) Take immediate steps to identify necessary funding, including a possible supplemental funding request for this fiscal year, and provide targeted grants to owners of passenger rail and to owners of public transit in the 50 largest metropolitan areas of at least \$250 million above amounts already provided. These funds should provide strong support for investments with protective benefits in the near term, including increased capital investments in cameras and other surveillance systems as well as communications systems; increased training and technical support for personnel, especially for prevention, emergency response, and decontamination; expanded deployment of WMD and explosive detectors; improvements in the physical security of stations, vehicles, and bridges and tunnels; and the acquisition of emergency response and support equipment;
- 2) Require recipients of federal grants to perform annual drills and additional testing of and training on emergency response plans and provide financial support for such drills and training;
- 3) Designate an office within the Department of Homeland Security to develop and harmonize best practices for passenger-rail and public-transit security;
- 4) Modify guidance for the current critical infrastructure grant program to allow funds not yet disbursed (\$140 million of the \$200 million appropriated in fiscal year 2003 still has not been disbursed) to be used for appropriate security measures for passenger rail and public transit systems.
- 5) Take a greater leadership role in developing employee and public awareness campaigns, instead of largely relying on industry and the FTA;
- 6) Work with Department of Transportation to develop a risk-based plan that specifically addresses the security of the nation's passenger rail and public

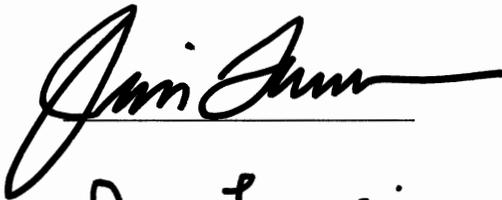
¹⁸ U. S. General Accounting Office, *Mass Transit: Federal Action Could Help Transit Agencies Address Security Challenges*, GAO-03-263, (Washington, D.C.: GAO, December 2002), 2.

transit infrastructure and establishes time frames for implementing specific security actions;

- 7) Define and clarify the respective roles and responsibilities of the Department of Homeland Security and the Department of Transportation in security matters.

We hope that the Department will consider making a supplemental appropriations request for fiscal year 2004 and proposing an amendment to its fiscal year 2005 budget request to address our urgent transportation security needs in light of the recent Madrid attacks. We also request that you consider the policy initiatives outlined above. We look forward to working you on this most vital subject.

Sincerely,



Jim Langer

Bob Sten

Bill Parrott

Ken Lucas

Carol Stoltz

Norm Dicks

Ben Cardin

Kendrick B. Meek

Laura Sandberg

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