

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
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Statement of Senator Patrick Leahy,
Ranking Democratic Member, Senate Judiciary Committee
Hearing On "Keeping America's Mass Transportation System Safe:
Are the Laws Adequate?"
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I thank Senator Biden and Senator Sessions for holding this hearing today and Chairman Hatch for scheduling it. Last month, terrorists nonchalantly placed 10 explosive-filled backpacks on a crowded city train and then walked away, leaving a trail of carnage behind them. The plan was simple but effective. Nearly 200 people died, more than 1,400 were injured. Though this horrific scene took place in Madrid, we all know that it could have occurred in any major city in the United States. My sympathies are with the Spanish people and the families of the victims of this crime.

It has been reported that the Federal Government is spending \$4.5 billion on aviation security this year, but only \$65 million on rail security, even though five times as many people take trains as planes every day. The catastrophic Madrid bombings demonstrate all too cruelly that this fiscal reality is replete with risks. It seems that train security is the forgotten caboose in national efforts to develop a transportation system that is safe from terrorist attack. Department of Homeland Security Undersecretary Asa Hutchinson told CNN last month that "we very well [may] need to ... invest more" in the mass transit security system. I say that this could "very well" be the understatement of the year.

The nation's rail transportation system includes over 100,000 miles of rail and 500 train stations. Each year more than 500 million people, 2.5 million railcars, and 5.7 million cargo containers must be processed at our borders. The security challenges are significant. They include the rail system's intentionally-accessible structure, tight budgets and financial woes, and the sheer number and overlapping responsibilities of myriad federal agencies, State and local governments, and private businesses involved in transportation security. Considering that transportation systems are the object of roughly one-third of terrorist attacks worldwide, we cannot neglect the safety of rail transportation without taking tremendous risks.

The attacks of September 11, 2001, demonstrated our air transportation system's vulnerability to the threat of terrorism. We have made efforts to improve security in our airports and safety in our skies. Planes are not the only the public carriers in the United States and, to be sure, planes are not the only possible targets for terrorist attack. This is one reason that I was successful in including in passage of the PATRIOT Act a crime prohibiting terrorist attacks and other acts of violence against mass transportation systems. I also successfully pushed last year for clarification of the word "vehicle" in Title 18, United States Code Section 1993 to ensure that vehicle includes "any carriage or other contrivance used, or capable of being used, as a means of transportation on land, water or through the air."

Many transportation operators have conducted risk or security assessments, undertaken emergency drills, and developed security plans--Amtrak and Greyhound among them. State and local governments have also acted to improve the security of the transportation system. Such entities play a critical role because they often own a large portion of the local transportation system and because their police, fire, and emergency medical teams serve as first responders to incidents involving transportation assets. There are a number of pending bills by Senators Hollings, Schumer, Feinstein and others, including S.22, the Justice Enhancement and Domestic Security Act introduced in January 2003, to address rail security and funding issues that should be getting more attention in the United States Senate but that Senator Sessions unfortunately chose not to make the subject of this particular hearing. Senator Biden has championed a strong port security measure.

Just over seven months ago, the General Accounting Office reported on concerns expressed by a number of representatives from transportation industry and State and local government associations. These groups told GAO that they are not included in governmental decision-making processes, such as the development of security standards for mass transportation. They explained that clarifying federal roles and coordinating federal efforts is critical because, as of that time, their members had not been informed which agency they should contact regarding security concerns or for oversight purposes. Some representatives from the transportation industry and State and local government associations also noted that they have received conflicting messages from the different federal entities.

It is very troubling that a real or perceived lack of information sharing and interagency cooperation within the Federal Government could remain an issue two years after September 11. Have we not learned the importance of coordination, communication, and consensus-building? Federal programs like the Surface Transportation Information Sharing and Analysis Center have mandates for coordination between government and private industry on information sharing and threat assessment, but small transit operators and railroads cannot afford to participate. What is wrong with this picture?

Senator Hollings introduced a bill, S.1961, last fall to allot \$515 million for risk assessments and security improvements for trains. In fact, he has introduced the bill twice before, but it has gone nowhere. I count myself in good company among his 15 bipartisan co-sponsors. Last year, a survey of transit agencies by the American Public Transportation Association identified some \$6 billion in unmet security needs. These needs remain unmet today, and yet we have not received a plan from the Transportation Security Administration to address them.

We must be mindful that rapidly rising operating costs -- including fuel, liability insurance, workers compensation insurance, and employee health insurance -- have already strained tight budgets for many public transit providers. Thus, additional security measures may well require additional federal funding. As legislative and regulatory proposals on security are considered, we must seek to ensure that the ideas proposed are practical, feasible and cost-effective, particularly when implemented in small or rural environments like Vermont. In addition, all security initiatives should reflect the views of first-responders, upon whom we rely to provide meaningful support to public transit's safety and security programs.

The distinguished panel at today's hearing comes to us with years of practical experience and critical insight. I thank them for making themselves available on short notice to participate in this discussion. I also want to thank Senator Biden for serving as Ranking Member and for his leadership in this area. As I have noted, he has important legislation pending, S.1587, that includes cargo safety initiatives. This is an issue that Vermont's U.S. Attorney Peter Hall raised before the Senate Committee on Governmental Affairs last summer when he touted the important work that is being done in Vermont through Operation Safe Commerce, a program designed to prevent the use of the global cargo container delivery system to attack the United States.

There is much to be done to keep America's transportation systems, including its railways, safe. Today's hearing should provide fruitful suggestions. With our combined efforts, surely we can make mass transit more secure for the American public and the businesses that use and rely upon it.

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