NATIONAL DISABILITY RIGHTS NETWORK

Protection & Advocacy for Individuals with Disabilities

September 22, 2021

To Whom It May Concern:

The National Disability Rights Network (NDRN) writes today to provide comment on the request for information (RFI) on transit safety concerns published in the Federal Register on July 15, 2021. We appreciate this opportunity to comment on this critical issue as it can impact the lives of millions of Americans with disabilities.

NDRN is the non-profit membership association of Protection and Advocacy (P&A) agencies that are located in all 50 States, the District of Columbia, Puerto Rico, and the United States Territories. In addition, there is a P&A affiliated with the Native American Consortium which includes the Hopi, Navajo and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. P&A agencies are authorized under various federal statutes to provide legal representation and related advocacy services, and to investigate abuse and neglect of individuals with disabilities in a variety of settings. The P&A Network comprises the nation's largest provider of legally based advocacy services for persons with disabilities, including advocacy on transportation services.

The following comments provide input on the first two questions presented in the RFI.

Safety Concerns

What transit safety concerns should FTA consider analyzing through its SRM process for small transit providers? Large transit providers? Rail, bus, and multimodal transit providers? Briefly describe why each identified safety concern should be considered, including any data-based evidence that may be available.

The Federal Transit Administration (FTA) should analyze the policies and practices of bus drivers and rail vehicle operators and the impact on the safety of passengers with disabilities. A common scenario in transit buses that puts passengers who are blind or have mobility disabilities at risk is starting to move (especially if done abruptly) before all passengers have had time to sit down. For travelers with disabilities or the elderly, a quick lurch forward can be dangerous; the passenger may lose their footing and fall. FTA should analyze the policies and practices of transit providers to see how frequent such injuries are sustained and if new policies could mitigate injuries. An analysis of the entire trip process should be carried out to see if practices may bring about unsafe situations for passengers with disabilities.

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Another example of such procedures can be modeled by the Washington Metropolitan Area Transit Authority (WMATA) system in Washington D.C. The new train cars' doors remain closed for a longer time, which presume helps with safety. Research on whether such practices did actually help increase safety would be helpful to know.

Similarly, analysis on how bus drivers carry-out disability specific safety procedures should be analyzed to see if they are being performed correctly or instead being performed in an unsafe manner. For instance, when a public transit bus kneels to enable a traveler with a physical disability to enter the bus more easily, situations do occur where the driver kneels the bus while someone is actively entering or exciting the vehicle. Such an unexpected movement could cause a passenger to fall. Research should be conducted to see when the drivers are activating the accommodation device and if such practices are carried out appropriately and safely. Similarly, research should be carried out to see if wheelchairs are being safely tied down in buses.

Small transit providers often have fewer employees. However, to accommodate passengers with disabilities, such as travelers who are blind or have low vision, the transit provider may need to provide an escort to the train or other vehicle. However, if the provider has few employees, such a passenger may be forgotten. This may cause the blind traveler to be left in an unsafe situation. Analysis on the efficacy of accommodation processes should be carried out. Most transit providers have appropriate Americans with Disabilities Act (ADA) policies on paper. Now, research should be conducted to see if the written policies are being followed.

Public access can be hindered for individuals with disabilities if important landmarks do not have accommodations such as accessible pedestrian signals (APS). Research should be conducted to see how often major transit sites include APS near-bye to enable travelers with disabilities to more easily access the transit center.

(2) Are there any new or emerging safety concerns that may not yet appear in industry data (either through near-misses or not meeting reporting thresholds, for example) that should be analyzed by FTA to proactively mitigate future impacts?

As subway and light rail systems replace legacy equipment, or begin new service, there have been some issues with the implementation of the ADA requirement, 49 CFR § 38.109, to provide "Between-Car-Barriers" which are intended to prevent, deter, or warn individuals who are blind from mistaking the space between rail cars as a doorway. The WMATA's 7000 series cars were delivered with a unique rubber between-car-barrier design with an unprotected gap. After an incident where a blind individual fell between two of the 7000 series cars, the FTA wrote to WMATA requiring WMATA to make changes in the cars to mitigate the danger:

https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/regulations-and-guidance/safety/116996/letter-wiedefeld.pdf.

Similarly, in 2015, FTA wrote a dear colleague letter to all transit agencies providing clarification about the requirement to provide between car barriers whenever the light rail cars provided level boarding:

https://www.transit.dot.gov/regulations-and-guidance/policy-letters/lrt-vehicle-car-barrier-requirements.

While these FTA actions have been helpful, some additional analysis is needed to develop additional guidance or perhaps regulatory mandates to ensure that the new "between car barriers" do *actually* prevent, deter or warn blind individuals, particularly white cane users, from mistaking the space between cars for a doorway. The critical issue is whether the devices are located so that white cane users will encounter them and be warned before stepping into the space between rail cars.

FTA should also consider whether designing and installing more robust between car barriers (in most subway systems, there are merely a set of two or more chains) could be designed that would also protect all passengers, with or without disabilities from failing between the spaces between rail cars due to a loss of balance or a trip and fall.

As multimodal transit continues to grow and evolve and new forms of transit, such as dedicated bicycle and pedestrian paths and lanes, are created new challenges have emerged for wheelchair users or blind travelers. Assessments should be carried out to determine the safety of new bike lanes and other mixed-use paths and lanes to make sure pedestrians with disabilities can safely travel throughout the community.

Additionally, new multimodal transit facilities are including locations to park bikes and other micromobility devices. The location of shared mobility parking or docking facilities must be designed and installed where they do not create obstacles for pedestrians with mobility disabilities or are blind.

Again, thank you for allowing us to comment on this RFI. Please contact Claire Stanley, Public Policy Analyst, at Claire.stanley@ndrn.org should you have any questions or concerns with these comments.

Sincerely,

Curtis L. Decker
Executive Director