



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

The Inspector General

Office of Inspector General  
Washington, D.C. 20590

**November 10, 2004**

The Honorable John McCain  
Chairman

The Honorable Ernest Hollings  
Ranking Member

Committee on Commerce, Science  
and Transportation  
United States Senate  
Washington, DC 20510

Dear Chairman McCain and Senator Hollings:

By letter dated November 24, 2003, you requested we assess a matter regarding railroad police that arose during the Committee's consideration of legislation to reauthorize the Federal rail safety programs. You requested our assessment of the responsibilities of railroad police, including any additional duties they perform as railroad employees that may involve enforcing company rules and policies, whether those duties vary from state to state or from railroad to railroad, and whether there is any evidence of, or potential for, misapplication of state police powers when railroad police officers perform non-police duties.

According to the Federal Railroad Administration (FRA), there are more than 500<sup>1</sup> railroads in the United States. We coordinated with the Committee Staff to determine the scope of the assessment requested. Staff advised that a concentration on Class 1 railroads and several Class 2 railroads<sup>2</sup> would meet the needs of the Committee. Additionally, we met with United Transportation Union (UTU) officials who indicated that by conducting our assessment based on the Class 1 and the Class 2 railroads included herein, our assessment would cover in excess of 90 percent of their membership. During our coordination meetings with Committee Staff and UTU officials, we requested specific examples or incidents that caused concern on the part of union officials regarding the potential for abuse of railroad police authority<sup>3</sup>.

---

<sup>1</sup> The Association of American Railroads reports a total of 554 railroads as of 2002.

<sup>2</sup> Both the Surface Transportation Board and the Association of American Railroads classify railroads in North America in terms of size as Class 1, 2 or 3, based on annual operating revenue, adjusted for inflation.

<sup>3</sup> Appendix A details the scope and methodology of our review.

We met with officials of UTU who identified, and provided information about, six specific incidents contributing to its concern about the use of rail police. Three of those incidents involve situations where police officers allegedly participated in illegal or improper conduct. The three other incidents involved situations where the UTU questions the appropriateness of using railroad police for non-law enforcement related activities on behalf of management. The six reported incidents allege, in brief, the following on the part of railroad police:

1. Potential misconduct
2. Heavy-handed tactics
3. False accusation and intimidation
4. Inappropriately used to deliver administrative notices for management
5. Inappropriately used to investigate time and attendance issues
6. Inappropriately used to conduct surveillance of injury claimants

### **Results in Brief**

- **Law Enforcement Authority of Railroad Police Derives from the States:** Rail police are railroad employees who are commissioned under state laws to exercise law enforcement authority (e.g., firearms carriage, arrest authority). Under Federal law and regulations, officers may perform rail-related law enforcement duties in states other than those where they hold a state commission, provided that the employing railroad carrier owns property in those states and sends a notice to the state commissioning authorities. Federal law and regulations defer to state law to define the powers and duties of railroad police officers within each state.<sup>4</sup>

In briefing Committee Staff, we discussed our investigation of cases involving individuals who fraudulently obtained state commissions as police officers of fictitious railroads (or ones existing only on incorporation papers), in order to circumvent state firearms carriage laws and for other illicit purposes. We have several ongoing investigations into such scams. We note, however, that none

---

<sup>4</sup>Title 49, Code of Federal Regulations, Part 207.5 states, “(c) The authority exercised under this part by an officer for whom the railroad has provided notice in accordance with Sec. 207.4 shall be the same as that of a railroad police officer commissioned under the laws of that state.

(d) The railroad police officer's law enforcement powers shall apply only on railroad property, except that an officer may pursue off railroad property a person suspected of violating the law on railroad property, and an officer may engage off railroad property in law enforcement activities, including, without limitation, investigation and arrest, if permissible under state law.”

of these cases involve any involving wrongdoing on the part of actual railroad police officers<sup>5</sup>.

- **Caseloads Comprised of Conventional Police and Employee Matters:** To determine the types of cases comprising railroad police caseloads, we surveyed the railroads. Data provided reflects that of 136,808 total cases/incidents for 2003, a railroad employee was the subject of 975 cases (0.71%). The railroads reported that of those 975 employee cases, 309 were handled administratively and 51 resulted in prosecution. While the data shows cases/incidents involving railroad employees to be less than 1%, this still amounted to 975 such cases in 2003 alone, which is a significant number of employee-related cases.

Additional survey data provided by railroads for 2003 reflects that 96% of the reporting railroads' 1,508 arrests/prosecutions involved four categories of crime: trespassing (66%), burglary (12%), vandalism (10%), and theft (8%).

- **Some Employee Complaints Raise Serious Issues About Railroad Police:** Three of the six incidents brought to our attention by the UTU involve issues where police officers allegedly participated in unlawful or improper conduct, such as illegal wiretapping, abuse of arrest authority, and heavy-handed interview tactics. We found in one of these instances that railroad police may have violated Federal eavesdropping laws; however, the incident occurred ten years ago, outside the five-year statute of limitations.<sup>6</sup>

The three other incidents involve situations where the UTU questioned the appropriateness of using railroad police for non-law enforcement related activities on behalf of management, such as investigating time and attendance issues, delivery of administrative notices to employees, and conducting surveillance of injury claimants.

For some of the instances we reviewed, railroad police involvement appeared to be warranted, while other circumstances did not reflect an appropriate, prudent application of police resources. Across all levels of law enforcement, the actions of officers exercising police powers are subject to scrutiny on a situational, case-by-case basis. Based on our review of the incidents reported, we have some observations as to how railroads can strengthen their programs with respect to handling cases involving employees and complaints about their police officers.

First, if railroad police investigate employees, particularly for non-criminal matters, they can benefit from having clear policy and procedures to guide such investigations. Secondly, a formalized internal affairs function, having its

<sup>5</sup> See Appendix B for additional information.

<sup>6</sup> We have summarized each reported incident beginning on page 8 of this letter.

own set of procedures, is critical to assuring straightforward, objective investigation of allegations made against railroad police officers. However, as reflected in one case example involving Amtrak Police, neither the existence of employee procedures nor an internal affairs program assures appropriate, fair conduct by police officers. This underscores that there is no substitute for sound judgment on the part of officers, with effective day-to-day police management. Based on the circumstances of the Amtrak case addressed below, we recommend that the President of Amtrak refer this case to Amtrak's Inspector General for review, along with an assessment of the adequacy of the Amtrak Police employee incident policy/procedures and internal affairs program.

Our observations regarding employee procedures and internal affairs functions are further discussed as follows:

- a) **Railroad Police Investigative Procedures for Employee Cases:** Seven of the nine railroad police departments we surveyed—to include the four largest railroads in the country—reported they did not have specific policy and procedures for investigations of railroad employees. Only Amtrak and Canadian National reported having such policy/procedures in place. In that the data provided for 2003 shows 975 employee cases conducted by the railroads—not an insignificant number—we consider it important for railroad police to have internal procedures that distinguish investigative techniques in employee investigations. For example, in non-criminal investigations, Canadian National policy ensures union representation in accordance with their collective bargaining agreement during police interviews of employees, if requested.

The statutes we reviewed are silent with respect to the authority of railroad police to investigate administrative (non-criminal) matters. In our view, if railroad police departments are going to conduct administrative investigations involving employees, specific guidelines for the conduct of such investigations are important in promoting fair, equitable, and impartial investigative practices.

- b) **Internal Affairs Programs:** In our experience, a traditional method to address alleged abuse of authority or other misconduct by law enforcement professionals is the establishment of an internal affairs division or similar program. Accordingly, we sought to determine if the surveyed railroads had such a program. Seven of the nine surveyed railroads reported they have an internal affairs division or similar program to investigate allegations against railroad police officers. The two railroad police

departments without an internal affairs unit, Florida East Coast and Indiana Harbor Belt, are the smallest departments surveyed<sup>7</sup>.

As reflected in the case example below involving Amtrak, oversight of railroad police internal affairs elements is necessary to ensure they remain objective and credible. Strong oversight can be provided by railroad police senior management, and, in addition, by upper management of the railroad. With respect to Amtrak, its Inspector General can provide an added level of oversight for matters involving alleged improprieties on the part of Amtrak Police. In addition, throughout law enforcement, in cases involving alleged abuse of civil rights by police, the U.S. Department of Justice may intervene.

### **Background on Railroad Police**

In 1865, four years before the completion of the transcontinental railroad, railroad police were first authorized in the state of Pennsylvania. The Railroad Police Act of 1865 authorized the governor of the state to appoint railroad police officers, and gave statewide authority to these officers. Other states followed Pennsylvania's example.

As a result, the appointment, commissioning, and regulation of rail police have historically been state matters<sup>8</sup>. State statutes are not uniform, so railroad police had to be commissioned in each state where they could work.

The first Federal action dealing with rail police occurred with the passage of the Amtrak Improvement Act of 1976, and a 1979 amendment, which essentially provides that an Amtrak police officer could exercise police powers in any state, provided he was commissioned in one state.

Adopting a similar approach with respect to private railroads, Congress streamlined the private railroad police system with the passage of Section 1704 of the Crime Control Act of 1990. The Crime Control Act authorized the Secretary of Transportation to promulgate regulations empowering a railroad police officer commissioned in one state to perform law enforcement duties in every jurisdiction where the employing rail carrier owns property to protect:

- (1) employees, passengers, or patrons of the rail carrier;
- (2) property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

---

<sup>7</sup> In our experience, smaller police departments do not have the resources, or the volume of complaints, for a dedicated, separate "Internal Affairs" unit, instead relying on the management structure of the department for primary oversight and to handle internal affairs issues.

<sup>8</sup> In Canada, federal and provincial law regulates railroad police.

- (3) property moving in interstate or foreign commerce in the possession of the rail carrier; and
- (4) personnel, equipment, and material moving by rail that are vital to the national defense.

In 1993, under authority delegated from the Secretary, FRA promulgated regulations implementing the Crime Control Act.<sup>9</sup> These regulations permit railroad police officers commissioned in one state to perform their duties in states where the rail carrier owns property, if the employing rail carrier submits a notice to each state in which the railroad police officer shall operate.

FRA regulations also provide that state law governs the authority exercised by railroad police officers under the regulations. They provide that their authority “shall be the same as that of a railroad police officer commissioned under the laws of that state,” and...“may engage off railroad property in law enforcement activities, including, without limitation, investigation and arrest, if permissible under state law.”<sup>10</sup> The FRA regulations contain no reference to railroad police investigating railroad employees.

### **Summary of State Commissioning Authority Statutes**

We reviewed 21 railroad police state statutes.<sup>11</sup> These states contain approximately 58% of the nation’s approximately 142,000 track-miles. The state railroad police statutes we reviewed generally provide that a state official may commission railroad employees as railroad police officers.<sup>12</sup> In general, railroad police officers have the authority to carry firearms, make arrests, and investigate crimes on railroad property or against railroad passengers and employees.

Most state statutes require law enforcement training, and many require background checks. However, in practice, all Class 1 railroads reported they conduct extensive background checks on police applicants, and all have previous police academy training or attend as a condition of employment. Some states explicitly permit railroad police officers to pursue suspects or make investigations off railroad property.

---

<sup>9</sup> Title 49 C.F.R., Part 207.

<sup>10</sup> Title 49 C.F.R., Part 207-5(c) and (d).

<sup>11</sup> We reviewed 21 state railroad police statutes for Arizona, California, Florida, Illinois, Kansas, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Washington. See Appendix C for details of the legal framework and summary of the railroad police statutes we reviewed.

<sup>12</sup> State statutes employ several titles, such as “railroad police officer,” “railroad policeman,” “police agent,” “peace officer,” or “deputy state sheriff.” For simplicity’s sake, we will use the term “railroad police officer.”

Additionally, in briefing Committee Staff, we discussed our investigation of cases involving individuals who fraudulently obtained state commissions as police officers of fictitious railroads (or ones existing only on incorporation papers), in order to circumvent state firearms carriage laws and for other illicit purposes. In one ongoing case in California, three individuals were indicted for fraudulently obtaining state commissions as railroad police officers and subsequently issuing traffic citations to members of the public, who were directed to pay the citations via mail to a post office box. To date in that case, one defendant pled guilty and was sentenced to 15 months imprisonment, followed by three years supervised release; judicial action remains pending for the two other defendants. We have several ongoing investigations into such scams. We note, however, that none of these cases involve any wrongdoing on the part of actual railroad police officers.

### **Summary of Data on Railroad Police Cases**

In 2003, the reporting railroads generated 136,808 total cases or incidents<sup>13</sup>, of which 18,699 resulted in prosecution. During our presentation to Committee Staff of our preliminary findings, Staff expressed interest in determining the types of law enforcement activity that railroad police officers were conducting. We then conducted a follow-up survey of the railroads to determine the categories of offenses for arrests and/or prosecution.

Pertinent data provided by responsive railroads<sup>14</sup> reflects that for 2003, 96% of 1,508 arrests and/or prosecutions reported involved conventional police/security matters, e.g., trespassing (993=65%), burglary (176=12%), vandalism (151=10%), and theft (113=8%). The remaining 4% of reported arrests/prosecutions in 2003 included interference with rail operations, illegal dumping, disorderly conduct, drugs, assault, public intoxication, and arson.

Of the 136,808 total cases/incidents reported for 2003, a railroad employee was the subject of 975 cases (0.71%). The railroads reported that of those 975 employee cases, they handled 309 administratively<sup>15</sup> and 51 resulted in prosecutions<sup>16</sup>. The railroad data provided reflects that no action was taken for 419 employee cases, and we could not determine whether any action was taken in

---

<sup>13</sup> The terms “case” and “incident” are used interchangeably and refer to any matter that resulted in the railroad police department generating a report in their police management reporting system.

<sup>14</sup> Data from the follow-up survey does not include CSX, BNSF, UP or Amtrak, as these railroads did not provide arrest/prosecution categorization data sufficiently responsive to the survey instrument.

<sup>15</sup> Administratively handled refers to internal company disciplinary proceedings to include disciplinary hearings, reprimands, suspensions and terminations.

<sup>16</sup> This figure, encompassing all categories of cases, includes 46 instances where an incident resulted in both prosecution and administrative action.

the balance of 196 cases due to an inability on the part of Norfolk Southern's data management system to track those results.

Figure 1 below provides a railroad-by-railroad summary data comparison of incidents/cases, prosecutions, and employees.

**Figure 1. Total Cases vs. Employee Cases in 2003 Reported to OIG by the Surveyed Railroads<sup>17</sup>**

Railroad	Railroad Route Miles <sup>18</sup>	Total Incidents/Cases	Total Prosecutions	Employees	Cases on Employees	Employee Prosecutions
CSX	19,181	40,000	1,955	33,000	124	1
UNION PACIFIC	27,388	34,138	10,245 <sup>19</sup>	49,000	226	11
AMTRAK	23,000 <sup>20</sup>	24,027	2,142	20,076	182	25
NORFOLK SOUTHERN	17,292	17,532	1,254	28,160	196	0
CANADIAN PACIFIC	1,687	7,995	77	3,801	6	0
BURLINGTON NORTHERN SANTA FE	24,674	5,748	2,615	36,888	146	13
INDIANA HARBOR BELT	54	4,362	16	745	91	0
CANADIAN NATIONAL	6,016	2,317	250	6,700	4	1
FLORIDA EAST COAST	351	689	145	768	0	0
<b>Total</b>		<b>136,808</b>	<b>18,699</b>	<b>179,138</b>	<b>975</b>	<b>51</b>

### Specific Incident Summary

Information provided by United Transportation Union (UTU) officials included reports of six specific incidents. These incidents were provided as examples of railroad police activity that caused UTU concern about using railroad police for management activities. We requested, obtained, and reviewed official railroad police reports or responses concerning those incidents. After briefing our

<sup>17</sup> See Appendix D for more detailed information on respondents to the assessment survey instrument.

<sup>18</sup> Route (or road) miles refer to the rail system owned/operated by the railroad and do not include mileage for more than one track, e.g., double tracking. Mileage figures for Class 1 railroads were obtained from the Association of American Railroads. Figures for Florida East Coast, Indiana Harbor Belt, and Amtrak were obtained from their websites.

<sup>19</sup> Union Pacific reported both arrests and prosecutions, not distinguishing between the two fields.

<sup>20</sup> Amtrak owns 653 route miles, but operates on 23,000 system-wide route miles through track use arrangements with freight railroads.

preliminary findings to Committee Staff in February 2004, the UTU was asked to provide any additional examples of incidents. No additional examples were provided. However, given the total number of railroad employees, and the absence of a formal mechanism at that time for the union to collect complaints, there is a strong likelihood that incidents such as these have gone unreported.<sup>21</sup>

Three of the six incidents brought to our attention by the UTU involve issues where railroad police officers allegedly participated in illegal or improper conduct. The three other incidents involved situations where the UTU questions the appropriateness of using railroad police for non-law enforcement related activities on behalf of management. We concluded that, in certain instances, railroad management did not exercise appropriate, prudent judgment in utilizing police resources. Conversely, some of the incidents appeared to be an appropriate use of police resources given the possible criminal offenses being investigated. In any event, the incidents described below highlight the importance of railroad police having in place (a) formal guidelines for conducting employee investigations, and (b) an internal affairs function for investigating misconduct allegations against railroad police officers.

The railroad police chiefs were asked whether they expected their special agents to conduct non-criminal employee investigations of the nature, such as those the UTU reported. In summary, their responses indicated that any requests by railroad management for assistance involving an investigation of an employee in a non-criminal matter was out of the ordinary and very infrequent. One chief of police responded that it was not a common practice and he does not support the utilization of railroad police for investigation of employees in non-criminal matters.

The reported incidents are summarized, by allegation, as follows:

- **Potential Misconduct by Railroad Police:** It was alleged that in 1994, a Florida East Coast Railway chief of railroad police engaged in possible illegal wiretapping or eavesdropping of employee telephone calls.

Based on Florida East Coast Railway (FECR) responses, we found that in August 1994, FECR received an anonymous letter alleging that one of its roadmasters was taking kickbacks from a contractor used by FECR to pave

---

<sup>21</sup> We also received a communication from a vice president of the Transportation Communications International Union, AFL-CIO, who stated, "It has been my experience that these officers on the whole are good hard working employees. Many of them, if not all, are subject to close scrutiny under state and local police agencies, as they must obtain police commissions. I do know that some [railroad specialty] crafts have taken issue with these employees being used to deliver discipline notices or accompanying those who have delivered them. I do not believe that this rises to the level of abuse."

various grade crossings. Based on the legal advice received from FECR counsel, in the latter part of 1994 the former chief of police had a recording device placed for approximately two days on the business telephone extension line the roadmaster used. The former police chief testified during litigation that he listened to those portions of the recording that were non-personal. He further testified that this was the only instance where he had a listening/recording device placed on a phone line. As described, this may have violated Federal criminal law (18 USC 2511), albeit a ten-year old violation which is beyond the five-year statute of limitations. While this may have been a violation of Federal and/or state law, no criminal proceedings were initiated to our knowledge.

- **Heavy-Handed Tactics:** In 2003 at Penn Station in Philadelphia, Amtrak Police arrested an Amtrak conductor for allegedly teasing an Amtrak police dog. The conductor advised as follows: He had been on duty for an Amtrak trip from New York to Philadelphia and had a couple hours off-duty before the return trip to New York when he met a railroad police officer with a police dog. After the officer greeted him, the conductor made a vocal greeting to the dog, by saying “woof.” The officer appeared to take offense at this, and five minutes later, when the conductor was on break passing time by playing a musical horn in a waiting area at the train station, the same Amtrak Police officer arrived with five or more other officers asserting that the conductor had intimidated the officer’s dog. The event escalated, with Amtrak police arresting the conductor. The conductor, who is of diminutive stature and is reportedly afflicted with cerebral palsy, felt Amtrak Police employed heavy-handed tactics and abused its arrest authority.

Amtrak police records reflect the following: Amtrak police arrested the conductor for disorderly conduct, resisting arrest, and taunting/teasing a police working dog (a felony), in violation of Pennsylvania state statutes. The records we reviewed reflect that the Amtrak officer had advised the conductor about the dangers to the public of taunting a working police dog and informed him of the Pennsylvania statute prohibiting taunting a working police dog. The conductor repeatedly responded, “Chill out,” and proceeded to an employee gym area. The Amtrak officer, along with two other officers, approached the conductor to obtain identification information, at which time the conductor yelled profanities at the officers. He was told to calm down and cooperate or he would be arrested. He became disorderly and was arrested. He reportedly refused to be handcuffed and placed his hands in front of his body.

The criminal charges were dismissed by the Court. As reflected in the Court transcript, the judge considered the incident to not warrant criminal prosecution, stating “[the conductor] ticked-off the officer, call it what it is.

This case is discharged, all of this.” The conductor then faced a disciplinary hearing and was found in violation of five specific company policies, to include “Boisterous conduct” and “Failing to be polite, considerate and respectful of each other.” He was subsequently terminated and appealed, ultimately resulting in reduction to a 60-day suspension with a requirement that he attend anger management training.

Amtrak Police conducted an internal affairs investigation, which did not sustain the conductor’s allegation of abuse by the involved officers. The investigation concluded that, “although arresting [the conductor] may not have been the best course of action from a corporate standpoint and in light of the police department’s Customer Oriented Policing Philosophy, the officer was within his legal rights to make the arrest.” The sole recommendation from the internal affairs investigation was that the arresting officer be advised that contacting an Amtrak Police supervisor to assist would have been appropriate in this situation.

In cases involving employees, railroad police (not unlike agencies such as ours in the Inspector General community) have leverage and alternatives for action available to them by virtue of the individual’s employment. The Amtrak Police policy on employee cases affords officers considerable discretion in deciding whether to handle matters involving employees administratively or criminally, and, per our review, lacks clear guidance for its officers on handling employee incidents. Specifically, the Amtrak Police policy includes the following: “Company Rule violations, or other irregularities observed by Amtrak Police Officers during the regular course of duty, but not constituting criminal violations or conflicts of interest, will be reported to and dealt with by management.” In this instance, the judgment of the responding officers was to arrest the conductor. This case is illustrative of how, irrespective of policy, there can be no substitute for sound judgment on the part of law enforcement officers, along with effective day-to-day police management.

We can understand how the conductor, along with the union, viewed the actions of Amtrak Police as heavy-handed. Based on the nature of the circumstances in this matter, we recommend that the President of Amtrak refer this case to Amtrak’s Inspector General for review, to include (a) examining the propriety of the officers’ actions and the quality of the internal affairs investigation, including its depth, completeness, and objectivity; and (b) rendering an overall assessment of the adequacy of the Amtrak Police employee incident policy/procedures and internal affairs program.

- **False Accusation and Intimidation:** In 2003, Union Pacific special agents allegedly falsely accused a railroad worker (UTU complainant) of a racist act,

“hanging a toilet paper mummy in a community locker,” in Texas, thereby causing public humiliation and intimidation of the worker. The agents reportedly also accused the worker of committing perjury because he denied involvement or knowledge in the act, and that they demanded he provide a written statement.

Based on Union Pacific records, we found that a Union Pacific special agent received a request for investigation regarding an EEO complaint. A railroad employee reported observing a white paper-mache doll with a hangman’s noose around its neck hanging in a locker and believed it to be a racist act. Police interviewed the locker user (UTU complainant), who expressed that he did not construct the doll and that he shared the locker with another employee. Subsequently, a second employee, who shared the locker, stated he had made the doll as a Halloween decoration several months prior and it had been hanging in the locker since that time. The railroad police concluded it was not intended as a racist act, and no further action was taken.

The UTU complainant questioned the officers’ interview tactics, being accused, and being required to provide a written statement. While the requirement to provide a written statement in an administrative investigation is a conventional investigative procedure that we do not find inappropriate or unduly burdensome, use of law enforcement resources to conduct EEO investigations, on the other hand, does not seem appropriate. We find such issues best suited to administrative EEO investigators. At the time of its response to our survey, Union Pacific lacked policy and procedures for investigation of railroad employees. This case illustrates how railroad police policy can delineate employee-related matters for which police involvement is merited from situations where police involvement would be inappropriate, e.g., EEO matters.

- **Inappropriately Used to Deliver Administrative Notices for Management:** In 2003, a Union Pacific officer in uniform personally delivered administrative notices for alleged absenteeism to employee residences (two separate incidents).

We obtained Union Pacific records and spoke with the Union Pacific Police Chief, who stated that such use of railroad police “would be a very poor use of our manpower.” Union Pacific subsequently provided the following information after researching the two incidents: The Union Pacific Service Unit had requested police assistance because they were not sure they could obtain a courier service on short notice over the holiday season. The “window” for the subject disciplinary investigation notices was closing and management needed to get the notices to the charged parties as soon as

possible. In those instances, the investigation notices were delivered by police officers to the employees' residences, and received by family members, while the employees were on duty.

The UTU expressed that this was traumatic for the employees' family members, advising that their first thought upon seeing a uniformed railroad police officer at their door was that their family member had been injured or killed in an accident. The UTU also contended that this action violated their collective bargaining agreement (CBA) with Union Pacific. Article C-14, paragraph 3 of the UTU-Union Pacific CBA, regarding service of disciplinary decision notices, states, "If not delivered on Company premises, the decision shall be sent by Certified U.S. Mail...to the last known address." Although the CBA is silent on the method of delivery for investigation notices, it seems inconsistent to us that a precursor notice of investigation would be served at a residence—by railroad police no less—while the decision notice is delivered at work or via certified mail.

We, too, question the appropriateness of using railroad police officers to deliver administrative notices on behalf of management. While Union Pacific's Chief of Police gave an after-the-fact characterization of this as a poor use of police resources, at the time of its response to our survey, Union Pacific lacked police policy/procedures for employee-related issues, such as those raised in this situation. This incident further illustrates how railroad police policy can identify employee-related matters for which police involvement is merited from circumstances under which police involvement would be inappropriate.

**Use of Railroad Police to Investigate Time and Attendance Issues:** In 2002, CSX utilized its railroad police to investigate a Florida-based yardmaster's alleged false and misleading statements regarding the circumstances of what the yardmaster maintained was an automobile breakdown, and subsequent repair, that caused him to miss some work time. During an administrative hearing on this case, the investigating CSX police officer stated he had conducted similar investigations approximately six times.

Per CSX records we reviewed, we found that railroad management asked CSX police to determine if a railroad employee submitted false documentation to the railroad in order to excuse absenteeism. The CSX agent obtained information from the repair facility that no repair was done on the employee's automobile and, in fact, the employee had submitted misleading documentation. While railroad police may frame this issue as an investigation of a possible fraudulent submission of documents, the likelihood of criminal prosecution is remote. Given that the CSX special agent had performed similar investigations on

approximately six occasions, it seems more likely that railroad management at this facility came to rely on using the CSX police to perform what in most companies, and even government agencies, would be considered a management issue involving time and attendance. At the time of our survey, CSX Police lacked employee investigative policy and procedures.

- **Railroad Police Used for Surveillance on a Worker's Compensation Case:** In 2002, a Norfolk Southern police supervisory special agent in Roanoke, Virginia, investigated an employee in Binghamton, New York, who claimed an on-the-job injury. The Norfolk Southern agent conducted surveillance of the employee over the course of three days. During a formal investigation hearing, the agent asserted that conducting surveillance was part of his normal job.

Norfolk Southern records we reviewed reflect that, based on suspicion that the employee had submitted a fraudulent claim, the Norfolk Southern Casualty Claim Department submitted a formal request for police investigative assistance. Norfolk Southern Police assigned a surveillance specialist to observe the employee. Police involvement was limited to observations of the claimant from a public roadway in an attempt to determine if the claimant was actually injured. The railroad subsequently convened a formal investigation hearing, included in its internal fact-finding process, based on administrative charges that the employee made false and/or conflicting statements relative to the reported on-duty injury.

We consider it an appropriate use of law enforcement resources to investigate potentially fraudulent injury claims that can result in large monetary losses to the affected railroads.<sup>22</sup> It is analogous to investigations we, along with other Offices of Inspector General and Federal law enforcement agencies, to include the Postal Inspection Service, conduct of potentially fraudulent worker's compensation claims submitted by Federal and Postal employees. Nonetheless, as addressed below, railroad police departments such as Norfolk Southern can benefit from instituting policy for the conduct of employee investigations.

---

<sup>22</sup> Unlike most American workers, railroad workers are not covered by state no-fault workers' compensation insurance systems when they are injured on the job. Instead, railroad workers must recover their losses under the provisions of the Federal Employers' Liability Act (FELA). Under FELA, an injured worker negotiates a settlement with the railroad. If the negotiations fail, the worker may file a lawsuit alleging negligence by the employer to recover losses (GAO Report/RCED-96-199). The costs of FELA injury compensation are borne by the railroad. As such, there is a strong economic incentive to critically evaluate employee injury claims and investigate potentially fraudulent claims. We requested information regarding total annual FELA payments made by the railroads. Most respondents elected to withhold that information. For those that did provide the information, it was apparent that annual FELA payments are a large cost to the railroads and, in fact, exceed the entire annual railroad police budgets for those railroads that responded.

## **Employee Investigation Guidelines & Internal Affairs Functions**

In situations where railroad police investigate employees, particularly in non-criminal matters, we consider it a sound business practice for railroads to have employee investigative procedures in place, in furtherance of assuring consistency and fairness of treatment. Seven of the nine railroad police departments we surveyed, to include the four largest railroads in the country, reported they did not have a policy and procedures manual providing specific procedures for investigating railroad employees. In our survey, only Canadian National and Amtrak reported having such policy in place; for example, in non-criminal investigations, Canadian National policy ensures union representation (in accordance with their collective bargaining agreement) during police interviews of employees, where requested. Involvement of labor union representation in the development of employee investigative procedures would enhance their acceptance and likely lead to fewer complaints in the future.

Further, a traditional means of addressing alleged abuse of authority or other misconduct by law enforcement professionals is the establishment of an internal affairs division or similar program. As such, we sought to determine if the surveyed railroads had such a type of program. Seven of the nine surveyed departments reported they have established an internal affairs unit or similar program to investigate allegations against railroad police officers. The two railroad police departments that had not established an internal program to handle complaints against officers, Florida East Coast and Indiana Harbor Belt, are the two smallest departments surveyed.

As reflected in the case example involving Amtrak, oversight of railroad police internal affairs elements is necessary to ensure they remain objective and credible. Such oversight can be provided by railroad police senior management, and, in addition, by upper management of the railroad. With respect to Amtrak, its Inspector General can provide an added level of oversight for matters involving alleged improprieties on the part of Amtrak Police. In addition, throughout law enforcement, in cases involving alleged abuse of civil rights by police, the U.S. Department of Justice may intervene.

Figure 2 below provides a comparative listing identifying whether the reporting railroads have employee investigative procedures and internal affairs programs in place.

**Figure 2. Employee Investigative Procedures & Internal Affairs Programs in Place**

<b>RAILROAD</b>	<b>Railroad Police Administrative Procedures for Employee Investigations</b>	<b>Railroad Police Internal Affairs Program</b>
AMTRAK	<b>YES</b>	<b>YES</b>
BURLINGTON NORTHERN SANTA FE	<b>NO</b>	<b>YES</b>
CANADIAN NATIONAL	<b>YES</b>	<b>YES</b>
CANADIAN PACIFIC	<b>NO</b>	<b>YES</b>
CSX	<b>NO</b>	<b>YES</b>
FLORIDA EAST COAST	<b>NO</b>	<b>NO</b>
INDIANA HARBOR BELT	<b>NO</b>	<b>NO</b>
NORFOLK SOUTHERN	<b>NO</b>	<b>YES</b>
UNION PACIFIC	<b>NO</b>	<b>YES</b>

### **Concluding Observations**

While the data we reviewed indicates that employee cases comprise a relatively small proportion of railroad police caseloads, there were still 975 cases reported for 2003 alone, and some of the incidents involving railroad police brought to our attention did not reflect appropriate utilization of police resources. As illustrated by several of the cases we reviewed, management use of police officers for non-law enforcement activities renders railroads susceptible to criticism, as does the absence of policy/procedures for investigating employees and lack of a formalized internal affairs function.

In closing, railroads can benefit from ensuring their police operations include the following:

- Definitive guidance in place governing the conduct of employee investigations. Such guidance is important from the standpoint of assuring uniformity, consistency, and fairness of treatment. Significantly, seven of the nine railroads we surveyed did not have such policy/procedures.
- Policy delineation of employee-related matters for which police involvement would be merited from circumstances under which police intervention would be inappropriate. Several instances we examined did not, in our view, represent an appropriate use of police resources, and were better suited to management action.
- A formalized internal affairs program for investigating alleged improprieties and misconduct on the part of railroad police officers. This function should be

a cornerstone in every law enforcement organization's system of internal controls for assuring integrity and quality of service. Moreover, where effectively utilized, internal affairs functions help preclude perceptions of cover-up on the part of the organization. We do note that only two of the nine railroads surveyed lacked internal affairs programs.

- Collection and maintenance of accurate and sufficiently comprehensive police activity data, to include information pertaining to cases involving railroad employees and internal affairs investigations. Some, but not all, of the surveyed railroad police departments provided us with useful, complete data on their law enforcement and employee-related activities. Retention of meaningful and reliable data is important for historical, trend analysis, and quality assurance purposes. Those railroad police departments with good data systems could serve as models for their counterparts.

Lastly, as previously addressed, we believe the circumstances and associated issues surrounding the arrest of the Amtrak conductor warrant further examination from outside the Amtrak Police Department. Accordingly, we recommend that the President of Amtrak refer this case to Amtrak's Inspector General for review, to include the following: (a) an examination of the propriety of the officers' actions and the quality of the internal affairs investigation, including its depth, completeness, and objectivity; and (b) an overall assessment of the adequacy of the Amtrak Police employee incident policy/procedures and internal affairs program.

If I can answer any questions or be of further assistance in this or any other matter, please feel free to contact me at 202-366-1959, or my Deputy, Todd J. Zinser, at 202-366-6767.

Sincerely,



Kenneth M. Mead  
Inspector General

Enclosures (4)  
Appendices

## APPENDIX A

### Scope and Methodology

Our assessment included a review of applicable state authorizing statutes for railroad police. We also interviewed representatives of Class 1 railroad police chiefs and a representative of the Association of American Railroads (AAR). They provided information regarding the duties, training, and professionalism of railroad police officers employed by major railroads today. In addition, we interviewed UTU officials and a complainant involved with one of the reported incidents, that spoke to their concerns regarding the use of railroad police as a tool of railroad management to enforce administrative railroad policies, rather than restricting the role of railroad police to a purely law enforcement and/or security function.

We also developed and distributed a survey instrument that, based upon coordination with UTU officials, was sent to nine<sup>1</sup> Class 1 and Class 2 railroads that the UTU indicated would encompass in excess of ninety percent of that union's membership. The survey instrument elicited data from the railroads to include:

- The number of railroad employees;
- The number of sworn and unsworn railroad police employees;
- The number of cases in 2003;
- The number of cases where a railroad employee was the subject of the case;
- The number of cases prosecuted in 2003;
- The number of cases with a railroad employee as the subject that were handled administratively;
- Railroad police budget for 2003;
- Whether the railroad police organization has an internal affairs or similar section for handling complaints;
- Whether they have procedures in place for conducting employee investigations;
- A summation of the states where their officers are commissioned.

Additionally, as we previously mentioned, during our coordination meetings with Committee Staff and UTU officials we requested specific examples or incidents that caused concern on the part of union officials regarding the potential for abuse of railroad police authority. We were provided with six specific incidents. We obtained official railroad police records and/or responses regarding those incidents, which we have summarized in this letter.

---

<sup>1</sup> Survey instruments were sent to Amtrak, Burlington Northern, Canadian National, Canadian Pacific, CSX, Norfolk Southern, Union Pacific, Florida East Coast Railway, and Indiana Harbor Belt Railway.

## APPENDIX B

### DOT/OIG Investigations of Non-Legitimate Railroad Police

In briefing Committee Staff, we discussed our investigation of cases involving individuals who fraudulently obtained state commissions as police officers of fictitious railroads (or ones existing only on incorporation papers), in order to circumvent state firearms carriage laws and for other illicit purposes. We have several ongoing investigations into such scams, which, while not involving wrongdoing on the part of actual railroad police officers, point to potential weaknesses in the construction of some state railroad police authorizing statutes.

In one ongoing case in California, three individuals were indicted for fraudulently obtaining state commissions as railroad police officers and subsequently issuing traffic citations to members of the public, who were directed to pay the citations via mail to a post office box. To date in that case, one defendant pled guilty and was sentenced to 15 months imprisonment, followed by three years supervised release; judicial action remains pending for the two other defendants.

In another case in Illinois, a group of individuals purchased a building next to a railway siding. They incorporated a business entity with the word railroad in the business name and falsely claimed the railway siding belonged to their corporation. They subsequently began issuing police identification and badges to “employees.” They held themselves out to the surrounding community as railroad police and used their status as “off-duty police officers” to obtain security contracts at a public housing facility.

The Illinois state railroad police authorizing statute, provides that, “In the policing of its properties any railroad may provide for the appointment and maintenance of such police force as it may find necessary and practicable to aid and supplement the police forces of any municipality in the protection of its property and the protection of the persons and property of its passengers and employees, or otherwise in furtherance of the purposes for which such railroad was organized. While engaged in the conduct of their employment, the members of such railroad police force have and may exercise like police powers as those conferred upon the police of cities.” (610 ILCS 80/2)

The Illinois Police Training Act (50 ILCS 705) created the Illinois Law Enforcement Training Standards Board (ILETSB). The ILETSB promulgated standards for the selection and training of employees of law enforcement agencies, and to establish their qualification to be certified and licensed in the State of Illinois according to the standards and rules of the Board and the requirements of the Act. The standards establish mandatory, minimum requirements pertaining to the lack of a criminal

history background; and standards applicable to education, mental, moral, ethical, and physical skills and qualities.

In theory, railroads employing railroad police officers within the State of Illinois are held to the same standards as local police departments. However, railroad police officers are not required to be trained by approved ILETSB law enforcement officer training academies. The law only requires the training and certification of officers employed by “government entities.” ILETSB reports, however, that many railroads within the state voluntarily follow the ILETSB standards and submit documentation showing that their officers meet those standards. Our investigations have found that the ILETSB does not have procedures requiring confirmation of the legitimacy of the “employing” railroad.

These investigations also found that Title 49, CFR, Part 207 (issued by FRA) was often cited on bogus railroad police credentials as their authority to carry firearms outside their home states.

## APPENDIX C

### Legal Framework

In the mid-1800s, railroads were rapidly expanding throughout the United States and required police protection in order to prosper, and, in some instances, continue in business.<sup>2</sup> Some railroads formed private police departments, employed city police to make investigations, or employed armed guards to maintain order among unruly work crews.<sup>3</sup> In the 1850s, several railroads hired the famed private detective Allan Pinkerton, who, in 1861, foiled a conspiracy to sabotage track between Wilmington and Baltimore and to assassinate President Lincoln.

Other railroad “detectives” or “special agents,” as they were called, proved less reputable and reliable, and railroad police were subject to little oversight, training, and discipline.<sup>4</sup> Moreover, private railroad police had no authority off railroad property, unless they were deputized by the state or cities, which rarely occurred.

States, not the Federal government, enacted laws granting police powers to railroad police. In 1865, Pennsylvania passed the first railroad police statute—the Railroad Police Act. The act authorized the governor of the state to appoint railroad police officers, and gave statewide authority to these officers. Other states followed Pennsylvania’s example, but, there was, as one commentator put it, “peculiarities and inconsistencies” between different state statutes.<sup>5</sup>

Moreover, because commissions were granted by individual states, a railroad police officer would only possess rail police authority in the state of his commission, not in each state in which the railroad operated. Some states required residence for rail police officers, making it difficult to obtain multiple commissions. Thus, when commissioned railroad police officers were unavailable at the time of an incident, railroad police officers commissioned in other states would have to resort to citizen’s arrest or wait for the arrival of a commissioned railroad police officer or a state or local police officer.<sup>6</sup>

### **Analysis of State Laws**

Today, most states have enacted railroad police statutes. The statutes are not uniform, but often contain common elements.

---

<sup>2</sup> H. S. Dewhurst, The Railroad Police (Charles C. Thomas 1955).

<sup>3</sup> James W. Ely, Jr., Railroad and American Law (University Press of Kansas 2001).

<sup>4</sup> *Ibid.* pp. 6-7.

<sup>5</sup> The Railroad Police, p. 21.

<sup>6</sup> Federal Railroad Administration, Final Rule, 59 Fed. Reg. 6585 (Feb. 11, 1994).

In nineteen (19) states we reviewed, a state official—Governor, Attorney General, the head of the state police, the Secretary of State, or a state peace officer or criminal justice commission—is responsible for commissioning railroad police officers. The only exceptions are Illinois and Minnesota.

In addition, ten (10) of the state statutes require a background check into railroad police officers before the commission is granted. One of these states background check consists of a corporate officer attesting to the good moral character of the applicant; another consists simply of three (3) affidavits from state residents attesting to the good character of the applicant. Other states may have regulations or policies requiring background checks.

Twelve (12) state statutes we reviewed require minimum law enforcement training prior to receiving the commission. Some of these states require the same training standards as police officers; others require “peace officer” training. Some of the states delegate the standards to a state commission.

Four (4) states we reviewed immunize the state for unlawful acts of railroad police. Seven (7) states provide that the railroad shall be civilly liable for the acts or omissions of railroad police officers.

Each railroad police statute authorizes railroad police to arrest persons for crimes related to railroad property or passengers. For example, Texas law provides that railroad police officers:

“may make arrests and exercise all authority given peace officers under this code when necessary to prevent or abate the commission of an offense involving injury to passengers and employees of the railroad or damage to railroad property or to protect railroad property or property in the custody or control of the railroad.”<sup>7</sup>

Some statutes explicitly permit pursuit or investigation off railroad property. For example, Missouri law provides:

“Railroad policemen, while engaged in the pursuit of their purposes in regard to violations of the law which occurred on railroad property, shall have in every county and city in this state all law enforcement powers which county and city peace officers have except for the serving and execution of civil process, provided, however, that a railroad policeman shall not apply for or serve search warrants.”

---

<sup>7</sup> Texas Code of Criminal Procedure, Chapter 2, Article 2.121(b).

North Carolina's Company Police Act is unique in that it authorizes rail police to make arrests throughout the state for infractions *not* relating to the property of the railroad throughout the state.<sup>8</sup> This is the only statute we reviewed that grants such wide authority to railroad police officers.<sup>9</sup>

The Committee indicated that it is interested in the authority of railroad police officers to enforce company policies, such as dress codes. None of the state or Federal laws we reviewed explicitly prohibits this activity. However, we found that North Carolina considers such behavior a violation of the oath of office to uphold the criminal law. We did not find any other state with a similar interpretation. We did find that some states limit the duties that a rail police officer may perform. For example:

- In Texas, “a railroad peace officer who is a member of a railroad craft may not perform the duties of a member of any other railroad craft during a strike or labor dispute.”
- In New York, “no conductor, brakeman, fireman, engineer or other person actively engaged in the operation and movement of any train or car or set of cars shall be eligible for appointment as a policeman.”
- In New York, “A person appointed policeman under this section shall not, while the appointment is in force, be employed by or perform any service for the corporation . . . in any other capacity than that of policeman. . . .”
- In Missouri, railroad police may not participate “in any accident investigation which resulted from personal injury to, or property damage of, a third person, if such investigation is conducted away from railroad property.”
- In New Mexico, “such peace officers so appointed shall not have authority as such to act or perform any service or to be used as peace officers with reference to strikes or labor troubles.”

### **Federal Laws and Regulations**

The Amtrak Improvement Act of 1976 authorized Amtrak to hire “security guards for purposes of providing security and protection for rail passengers of the Corporation

---

<sup>8</sup> North Carolina General Statutes, Ch. 74E-6(e) (“Company Police Act”).

<sup>9</sup> Some police forces of state commuter railroads regulated by FRA have general, state-wide police powers. See, e.g., New Jersey Public Transportation Act of 1979, N.J.S.A 48:3-38.

[Amtrak] and for rail properties owned by the Corporation.”<sup>10</sup> The statute has been subsequently amended,<sup>11</sup> and it now provides that:

“Amtrak may employ rail police to provide security for rail passengers and property of Amtrak. Rail police employed by Amtrak who have complied with a State law establishing requirements applicable to rail police or individuals employed in a similar position may be employed without regard to the law of another State containing those requirements.”<sup>12</sup>

Essentially, the Act provides that an Amtrak police officer could exercise police powers in any state, provided he was commissioned in one state.

Congress gave similar interstate authority to private railroad police in the Crime Control Act of 1990 and a 1994 amendment. These acts authorize a railroad police officer who is certified or commissioned as a police officer under the laws of any state to enforce the laws of any jurisdiction in which the rail carrier owns property—to the extent of the authority of a police officer commissioned under the laws of that jurisdiction—for the purpose of protecting:

- (1) employees, passengers, or patrons of the rail carrier;
- (2) property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;
- (3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and material moving by rail that are vital to the national defense.<sup>13</sup>

<sup>10</sup> Pub. L. 94-555, § 104, 90 Stat. 2615 (1976).

<sup>11</sup> Pub. L. 96-73, §§ 106, 108, 93 Stat. 539, 540 (1979).

<sup>12</sup> 49 U.S.C. § 24305(e).

<sup>13</sup> Crime Control Act of 1990, Pub. L. 101-647, § 1704 states:

“A railroad police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of any State shall, in accordance with regulations issued by the Secretary of Transportation, be authorized to enforce the laws of any jurisdiction in which the rail carrier owns property, for the purpose of protecting--

- “(1) the employees, passengers, or patrons of the rail carrier;
- “(2) the property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;
- “(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and
- “(4) personnel, equipment, and materials moving via railroad that are vital to the national defense, to the extent of the authority of a police officer properly certified or commissioned under the laws of that jurisdiction.”

In 1994, Congress amended the statute to provide that a railroad police officer could enforce the laws of any jurisdiction in which the rail carrier owns property *to the extent of the authority of a police officer certified or commissioned under the laws of that jurisdiction*. Pub. L. 103-272, Subtitle V, Ch. 261 (1994).

Following passage of the Crime Control Act of 1990, the Federal Railroad Administration (“FRA”) issued regulations (49 C.F.R. Part 207), under authority delegated by the Secretary, governing the exercise of police power by railroad police officers while outside the jurisdiction of their commissions.<sup>14</sup>

The regulations define a railroad police officer as, “a peace officer who is commissioned in his or her state of legal residence or state of primary employment and employed by a railroad to enforce state laws for the protection of railroad property, personnel, passengers, and/or cargo.”

FRA regulations provide that after a railroad police officer is commissioned by a state or states, the railroad shall send written notice to appropriate officials of every other state in which the officer protects the railroad’s property, personnel, passengers, and cargo. Each railroad must maintain copies of all such notices at a central location (207.4(b)). Although many state laws require railroads to notify the state upon the termination of a rail police officer’s employment, FRA regulations do not require the railroads to notify other states of an officer’s termination.

FRA regulations provide that a railroad police officer acting in a state where he is not commissioned may enforce only relevant laws for the protection of—

- (1) the railroad’s employees, passengers, or patrons;
- (2) the railroad’s property<sup>15</sup> or property entrusted to the railroad for transportation purposes;
- (3) the intrastate, interstate, or foreign movement of cargo in the railroad’s possession or in possession of another railroad or non-rail carrier while on railroad property; and
- (4) the railroad movement of personnel, equipment, and materials vital to the national defense.

(207.5(b)-(c)). FRA regulations also provide that the authority exercised under the regulations shall be the same as that of a railroad police officer commissioned under the laws of each jurisdiction.

FRA regulations also state that the officer’s law enforcement powers shall apply only on railroad property, except that an officer may engage off railroad property in “law enforcement activities, including, without limitation, investigation and arrest, if

---

<sup>14</sup> 59 Fed. Reg. 6587, Feb. 11, 1994.

<sup>15</sup> Under 49 C.F.R. § 207.2(c), “Property means rights-of-way, easements, appurtenant property, equipment, cargo, facilities, and buildings and other structures owned, leased, operated, maintained, or transported by a railroad”.

permissible under state law” (207.5(d)). Most statutes do authorize railroad police to make off-property investigations and arrests.

In addition, in 1999 the President signed legislation enabling railroad police officers to attend the FBI’s National Academy for law enforcement training.<sup>16</sup>

---

<sup>16</sup> Pub. L. 106-110 (codified at 42 U.S.C. § 3771).

## APPENDIX D

### Railroad Survey Data

<b>RAILROAD</b>	<b>(A) Employees</b>	<b>(B) Railroad Route Miles<sup>17</sup></b>	<b>(C) Incidents/ Cases<sup>18</sup></b>	<b>(D) Cases on Employees</b>	<b>(E) Employee Case % of Total Cases</b>	<b>(F) Total Prosecutions<sup>19</sup></b>	<b>(G) Employee Prosecutions</b>	<b>(H) Employee Cases Handled Administratively<sup>20</sup></b>
INDIANA HARBOR BELT RAILROAD COMPANY	745	54	4,362	91	2.086%	16	0	41
FLORIDA EAST COAST RAILWAY LLC	768	351	689	0	0.000%	145	0	0
CANADIAN PACIFIC (CP) RAILWAY	3,801	1,687	7,995	6	0.075%	77	0	2
CANADIAN NATIONAL (CN) RAILWAY	6,700	6,016	2,317	4	0.173%	250	1	3
AMTRAK	20,076	23,000 <sup>21</sup>	24,027	182	0.757%	2,142	25	107
NORFOLK SOUTHERN CORPORATION	28,160	17,292	17,532	196	1.118%	1,254	0	
CSX TRANSPORTATION INC	33,000	19,181	40,000	124	0.310%	1,955	1	17
BURLINGTON NORTHERN SANTA FE RAILWAY	36,888	24,674	5,748	146	2.540%	2,615	13	133
UNION PACIFIC RAILROAD	49,000	27,388	34,138	226	0.662%	10,245	11	6
<b>SUMMARY</b>	<b>179,138</b>		<b>136,808</b>	<b>975</b>	<b>0.713%</b>	<b>18,699</b>	<b>51</b>	<b>309</b>

<sup>17</sup> Route (or road) miles refer to the rail system owned/operated by the railroad and do not include mileage for more than one track, e.g., double tracking. Mileage figures for Class 1 railroads were obtained from the Association of American Railroads. Figures for Florida East Coast, Indian Harbor Belt, and Amtrak were obtained from their websites.

<sup>18</sup> The terms “case” and “incident” are used interchangeably and refer to any matter that resulted in the railroad police department generating a report in their police management reporting system.

<sup>19</sup> Union Pacific Railroad reported both arrests and prosecutions, not distinguishing between the two fields as requested.

<sup>20</sup> Administratively handled refers to internal company disciplinary proceedings to include disciplinary hearings, reprimands, suspensions and terminations.

<sup>21</sup> Amtrak owns 653 route miles, but operates on 23,000 system-wide route miles through track use arrangements with freight railroads.