

Joint Investigation of Managerial Response to Incident Between Amtrak and SFRTA Trains

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1. Introduction

The purpose of this report is to document the results of the investigation of the managerial response by and among various entities to an incident that occurred on October 20, 2008 involving a SFRTA train and an Amtrak train on the South Florida Rail Corridor ("SFRC"). The report does not address the incident itself, as that is currently under investigation by the Federal Railroad Administration ("FRA"). The various entities involved are the South Florida Regional Transportation Authority ("SFRTA"), CSX Transportation ("CSXT"), the Florida Department of Transportation ("FDOT"), and Veolia Transportation Services, Inc. ("VTSI"). FDOT is the owner of the SFRC. CSXT is FDOT's Operations and Management contractor for the SFRC (which includes dispatching the SFRC), SFRTA is the provider of commuter rail service on the SFRC (pursuant to an agreement with FDOT) and VTSI is SFRTA's contracted operator of the SFRTA (or Tri-Rail) trains.

2. Conclusions, Actions Taken to Date and Recommendations

Conclusions

The focus of this investigation was why this incident did not come to the attention of the appropriate entities (SFRTA, VTSI and CSXT) at the time or shortly after it occurred. Several factors contributed to that result. One of the primary reasons is that it was not properly reported by the two train crews. In addition, due to the unique circumstances, it was not detectable by CSXT's Jacksonville dispatcher nor was it properly reported to the dispatcher. The SFRTA train was not more than 5 minutes, 59 seconds late in arriving at the Mangonia Park Station and, therefore, was not reported as a late train. In addition, the Wackenhut guard on the train that witnessed part of the event did not include it in his report. The Amtrak train was already over one (1) hour late and thus the delay from the incident did not lead to a separate late train report. As a result of these failures to report, the normal process that should have notified the various entities involved of the incident failed. In addition, no passengers contacted SFRTA to report the incident.

Another contributing factor which delayed discovery of the event was the vagueness of information originally provided to SFRTA and the fact that the initial report sounded very similar to an emergency practice drill that SFRTA had conducted several days prior on October 17, 2008. This similarity, combined with SFRTA and VTSI miscommunications (both internally and between each other), also delayed identification of the event.

Safety personnel at SFRTA, VTSI and FDOT were also not involved in the matter from the initial report which hindered earlier confirmation of the event.

Actions Taken to Date

- VTSI and Amtrak crews permanently barred from SFRC pending FRA investigation
- The SFRTA Manager of Operations position was advertised on November 6, 2008. The position will remain open until filled.
- VTSI employee disciplinary action taken:
 - J. Sharpe and V. Salemme placed on 30-day probation with letters of reprimand in their personnel files
 - D. Stokes receives a letter of reprimand in his personnel file, is suspended without pay for 2 weeks and will be placed on 30-day probation upon his return to work.
- SFRTA employee disciplinary action taken:
 - B. Barkman, W. Ramnarine and A. Yoder to receive letters of reprimand in their personnel files
 - A. Yoder is suspended without pay for 1 week and will be placed on 30-day probation upon his return
- SFRTA Safety and Security Administrator to become a direct report to the Deputy Executive Director, effective immediately

Recommendations

- SFRTA Manager of Operations position needs to be filled to ensure that SFRTA has sufficient management in place to address all operating and safety matters
- SFRTA Safety and Security Administrator (A. Yoder) and VTSI's Superintendent of Operations (V. Salemme) need more safety training and training on response to incidents
- SFRTA needs to arrange for easier, quicker access to onboard video recordings by users (contractors, agency personnel and other safety personnel)
- Discussions with CSXT and FDOT to review opportunities to improve electronic and video monitoring and/or alarms on the SFRC

- SFRTA, FDOT and CSXT should insure coordination and sharing of available data to detect anomalies or unreported incidents such as emergency brake applications and reverse train movements
- SFRTA should establish a procedure for routine, spot audits of video recordings
- Incident reporting and investigation procedures (provided in SFRTA's Accident/Incident Reporting & Unusual Occurrence/Event Procedures Internal Control Plan) need to be amended to distinguish routine complaints from operation-related complaints and to standardize the handling of such complaints.
- Improved oversight of VTSI Operations.
- Wackenhut personnel should receive training addressing incident reporting

3. Description of Incident

Based on a review of the video recordings of both the inside and outside of the SFRTA P632 train and other available documentation, SFRTA has ascertained that the following events took place.¹ The incident occurred on October 20, 2008. At approximately 5:30 p.m. that day, the crew of the northbound P632 SFRTA train headed to the Mangonia Park Station (after discharging passengers at the West Palm Beach Station) on Track 2 (see diagram in Exhibit 1). The crew was comprised of VTSI employees, specifically Shawn Ferniss (the "SFRTA Engineer") and Patricia Beal (the "SFRTA Conductor"). The SFRTA P632 train was aligned to crossover from Track 2 to Track 1 between West Palm Beach and Mangonia Park (specifically at Control Point Coral). While approaching the crossover to Track 1, the SFRTA Engineer made an emergency application of the brakes to stop the SFRTA train because it apparently appeared to him that the southbound P091 Amtrak train, also on Track 2, had continued to move forward past its stop signal in the southbound direction. The Amtrak train then came to a stop approximately 50 feet beyond its stop signal and approximately 140 feet from the SFRTA train. The SFRTA train which had stopped on the crossover then proceeded forward until it was along side the Amtrak train, and stopped again. The Amtrak train then backed up so that it was stopped just north of the stop signal on Track 2.

The SFRTA train then proceeded north to the Mangonia Park Station on Track 1 and the Amtrak train proceeded southbound on Track 2. The SFRTA train was approximately 5 minutes late in arriving at the Mangonia Park Station. The SFRTA train was not reported late because it was only 5 minutes behind schedule in getting to the Mangonia Park Station (a SFRTA train must be 5 minutes and 59 seconds late to be reported as a late train). Late trains and their root causes are discussed in daily conference calls among SFRTA, Veolia, CSXT, Bombardier, Amtrak and FDOT.

¹ FRA is conducting an investigation into the incident. FRA has access to other sources of information which may modify or supplement the description that follows.

The CSXT dispatcher (located in Jacksonville) monitors the trains on the SFRC through a system that divides the SFRC into blocks. When a train is in a block, the system alerts the dispatcher by lighting up the block on dispatcher's viewing screen. The dispatcher would normally get a warning when a train did not stop at a stop signal. However, in the event a second train enters a block while the block is occupied by the first train, the dispatcher is unable to know that both trains are in the block at the same time. In this case, the dispatcher did not get a warning (alarm) that the Amtrak train passed the stop signal because the SFRTA train was already occupying the block before that occurred.

The Wackenhut guard on the train did not include the incident in his daily report because he was apparently told by the SFRTA Conductor that the Amtrak train had almost hit a vehicle. He also did not realize that the train had made an emergency stop.

The incident and the subsequent actions by the SFRTA and Amtrak crews amounted to multiple rules violations. These violations will be dealt with by FRA as part of its investigation and final report, as well as by SFRTA and Amtrak. This report is only intended to focus on the handling and the response to the incident by the management of the various entities involved.

4. Managerial Response to Incident

The investigation which is the subject of this report was conducted to ascertain why the incident, which occurred on October 20, 2008, was not discovered by any of the various entities until November 4, 2008. This was a joint investigation conducted by SFRTA and VTSI with the assistance of CSXT. Various individuals from SFRTA, VTSI, and FDOT were interviewed on November 7th (Friday) and November 10th (Monday). Based on interviews of the list of individuals in Exhibit 2, SFRTA developed the following sequence of events regarding the various entities' managerial responses to the incident. In addition, SFRTA conducted a subsequent internal investigation into various issues raised and statements made during the joint investigation (see Section 4.b.).

a. Sequence of Events (based on Joint Investigation Interviews)

(A Summary Timeline of these events is provided as Exhibit 3.)

October 21 (Tuesday)

FDOT District IV Paralegal Gwandine Thurman, who was a passenger on P632 at the time of the incident on October 20th, sends an email to “D4-Legal” describing the incident.² (Tr. 343-344, 346-347)³

October 22 (Wednesday)

Larry Merritt (FDOT) calls Brad Barkman (SFRTA) at 3:55 p.m. regarding information he has obtained of a possible incident that occurred on October 21st in the AM peak hours between a SFRTA northbound train and another train (not known whether it was another passenger train or a freight train), where a female conductor was running through a train car telling passengers to run to the back of the car. (Tr. 246) After completing this call, Barkman calls Victor Salemme (VTSI) at 3:58 p.m., and tells him that “you’ve got to look into this. I’m not sure exactly what’s going on, but it appears that something might have happened, so we need to look through the records and see what’s going on, talk to some people. See if you can find anything with substance out there that correlates with this information that Larry gave me.” (Tr. 100, 103, 170) Barkman says Salemme also said that he (Salemme) would talk to the crews (Tr. 171). Salemme says that he looked at the “...unusual occurrence reports and the operation reports...”, but does not think he did any further research. (Tr. 412) Salemme also states that Barkman did not provide him with any specific information regarding the alleged incident. He says he recalls asking Barkman, “...do you have any information for me, being a train, train number, equipment used, location or time?” (Tr. 413)

Barkman then receives an email from Merritt at 5:17 pm saying that the “supposed” incident occurred on October 22nd during the AM peak hours, acknowledges he got the information “fourth hand so who knows how it may have changed” (Tr. 100) and thanks him for researching the matter.

Barkman states that he either called or left a voicemail for Salemme, after receiving the 5:17 p.m. email from Merritt, to ask Salemme to continue to pursue the matter and asking if he had “talked to his [VTSI’s] people. (Tr. 102, 104, 167) Barkman’s phone records show one call from Salemme at 4:11 p.m. and one call to Salemme at 4:14 p.m., but do not show a call to Salemme after the email from Merritt. Salemme recalls that Barkman called him back on October 23rd, but is not sure of the exact time. (Tr. 407)

² A copy of the email was not forwarded to SFRTA until November 10, 2008.

³ In this report, references to the transcript of the joint investigation held on November 7 and 10, 2008, will be in the form (Tr. #) referencing the applicable pages of the transcript.

October 23 (Thursday)

Salemme sends an email to Barkman at 7:40 am saying he has not found a record of the incident that they discussed on October 22nd. (Tr. 174) At 7:46 a.m., Salemme sends a second email saying that he intends to research the records “further back than yesterday.” Salemme’s email contradicts his earlier statement that Barkman did not give him a date for the incident when Barkman first called on October 22nd. (Tr. 413)

At 7:47 a.m., Barkman responds to Salemme’s 7:40 a.m. email thanking him and copies Merritt on his response. At 8:21 a.m., Merritt responds to Barkman’s email and thanks both Barkman and Salemme for researching the matter.

At 8:23 a.m., Barkman calls Salemme. During that call, Salemme says they discussed Merritt’s inquiry and the fact that SFRTA had just conducted an “evacuation train” or disaster drill on October 17, 2008 with volunteers that included a scenario similar to the incident reported to FDOT. (Tr. 407-408) Salemme says he speculates whether this report is related to the drill (Tr. page 408).

Salemme says that Barkman said to “hold off” (Tr. 416) and that he (Barkman) was going to “...check with Allen Yoder and I’ll get back with you.” (Tr. 408) Salemme says that he has no further contact with Barkman, Amtrak, CSXT or FDOT about this prior to November 4th. (Tr. 409)

During Salemme’s telephone call with Barkman, Sid Birckett comes into Salemme’s office, overhears the discussion with Barkman. Salemme tells him that Barkman called about a complaint from a female passenger “...about a female conductor running, saying brace yourself through the train.” (Tr. 76) Birckett says that he asked Salemme “...is that something I need to get involved with?” (Tr. 76) When Salemme says no to Birckett’s question, Birckett leaves his office and says he does not pursue the matter. (Tr. 76, 78)

Daniel (D.C.) Stokes is also in Salemme’s office and overhears Salemme’s call (on speakerphone) with Barkman. (Tr. 409, 415, 446, 455) Stokes reviews a “T-Max report” (work schedule) and sees that Beal and Ferniss were working train P632. Despite Salemme’s statement that Barkman told him to “hold off”, Salemme states that Stokes said that he would talk to Patricia Beal (the SFRTA Conductor) first to see if she knows anything about the alleged incident. (Tr. 447, 456-458) Stokes recalls Salemme saying “...we have to get on top of this and find out exactly... who, what and all...” (Tr. 460).

Stokes recalls that during the call with Barkman, Salemme tells Barkman “...we would check into it...” (Tr. 447) Stokes calls Jim Sharpe that afternoon (Sharpe was not sure if this call occurred on October 23rd or 24th) (Tr. 481) and asks him if he is still in the office. Sharpe replies that he just left but can come back and asks what Stokes needs. Stokes says that he needs to interview the

P632 crew (Tr. 486), but tells Sharpe he does not need to return to the office since Beal was off that day. Stokes says at this point he said something like "we'll take care of it" and assumed that "because I said that I would take care of it or look at it later...that he [Jim] was going to the [sic] follow-up when he came in the next day..." (Tr. 448) Stokes says he thought he told Sharpe to interview Beal when she was back at work. (Tr. 448) Sharpe says he understood the conversation only related to him coming back to the office that day to conduct the interview(s) and since Stokes told him not to come back he (Sharpe) was not to do anything further. Sharpe does not recall speaking to Stokes again about this matter. (Tr. 485, 488)

Salemme did not inform Barkman that based upon the sketchy information provided to date, he and DC Stokes had been able to narrow the focus to the only 2 female conductors and that they had discussed Stokes interviewing them.

Barkman then receives, and listens, to a voicemail sent at 9:37 a.m. from Merritt asking Barkman to "...hold off looking into that incident yesterday [10/22] morning. I'm hearing from other sources now that it wasn't yesterday morning's peak train. That it's some other day. We're going to dig into this a little bit more on this end and find out---if we can find out who the person was that was on the train and talk to them directly and find out exactly what the story is. And so far this is just third-hand, fourth-hand information. So don't do any more work on that, Brad, and I will get back with you on the more specific details. Maybe we can figure out what happened. Thanks a lot for the work you've done so far and just being responsive on this, and I'll get back with you..." (Tr. 107-108)

At 10:13 a.m. the same morning, Merritt again calls Barkman and leaves a second voicemail with more detailed information regarding the incident. Specifically, he says, "...I was able to get more information on the possible incident that happened. It was actually Monday, October 20th. It was on Train P-632, northbound 5:30 just south of the Mangonia Station. The information was provided to us by Gwandine Thurman in our legal office...her phone number is (954) 777-4506. She indicated that ...an Amtrak train was on the same track as the Tri-Rail. A female conductor came running through the car indicating everyone should move to the back of the train because there was going to be an impact. There wasn't an impact...I don't know the specifics...you may want to talk to her specifically about it...I had you looking at the wrong day...Sorry for the bad information the first time, but hopefully this will help you narrow it down and find out exactly what happened." (Tr. 108-109)

Barkman states that he only listened to the 9:37 a.m. voicemail and did not realize that Merritt sent a second voicemail on October 23rd until after November 4th when he was compiling information for the investigation. He speculates that he may have been driving and reviewing his messages when he listened to the beginning of the second message and skipped over it believing it was the first voicemail from Merritt sent only 40 minutes earlier. (Tr. 111-113)

Barkman also recalls participating in the daily conference call that day at approximately 11 a.m. This conference call occurs everyday and the various entities involved in the operation of the SFRC participate including: Bombardier, VTSI, CSXT, Amtrak, FDOT and SFRTA. Barkman did not recall discussing this event on that teleconference (Tr. 115).

However, the subsequent internal investigation did prompt Barkman to listen to the recording from the monthly Joint Service Committee (JSC) of October 23rd attended by Barkman, Yoder, Salemme, Birckett, and Reeves (amongst others). In that meeting Barkman talks about the reported incident and states that he now believes the reported incident was actually a report of the emergency drill that had taken place a few days prior to the date of the reported incident. See Section 4.b. of this report for additional discussion on this issue.

October 24 (Friday)

[Date of SFRTA Board meeting] Merritt said he either spoke with Barkman at the Board meeting or on the telephone the previous day and that Barkman may have mentioned in that conversation that SFRTA had an emergency drill on October 17th. [The significance of the drill is that it involved an evacuation of the train and Barkman said he thought the information received by FDOT may have been referring to the drill.] (Tr. 241)

Stokes calls Salemme and asks if he has heard anything on this issue. Salemme tells Stokes Barkman said hold off, don't go any further until you hear from us [SFRTA]. (Tr. 429)

October 27 (Monday)

According to Stokes, Sharpe asked him if Stokes had talked with Beal. It is at that time, according to Stokes, that he realized that no one had interviewed the train crew. (Tr. 451) Stokes said he thought that he told Sharpe on October 23rd to follow up and interview the train crew the next day (October 24th). (Tr. 448) Sharpe said Stokes did not ask him to do anything regarding the train crew and he did not recall having a follow-up conversation with Stokes. Sharpe said he understood that Stokes did not want him to do anything further. (Tr. 482-483, 485, 488) [Under questioning by CSX representatives it was pointed out that In an earlier interview conducted by CSX on November 6th, Stokes said he never spoke with Sharpe about interviewing the train crew. (Tr. 476-478) Stokes also said in that interview that in the telephone conversation he overheard between Salemme and Barkman that the conductor was heard to say, "we're about it hit a train." In his November 10th interview he said he did he did not hear a reference to hitting a train. (Tr. 473) Stokes also said he had a subsequent conversation with Sharpe after his CSXT interview and now believes he had a conversation with Sharpe about interviewing the train crew and a follow-up conversation as well. (Tr. 477) Stokes' statement is also inconsistent with that of Salemme who said he told Stokes on October 24th to hold off. (Tr. 429)

October 29 (Wednesday)

Yoder receives a call from Merritt at 2:17 p.m. asking him to look into the incident. Merritt provides him with the information that it was an incident involving a SFRTA train and an Amtrak train at approximately 5:30 p.m. on October 20th, north of West Palm Beach, where a conductor said “we’re going to hit an Amtrak train.” In this call, Merritt said that there was not only an FDOT employee on the train, but also other Palm Beach County School Board employees. Merritt tells Yoder that Barkman is already aware of this information. (Tr. 281-283)

Yoder tells Merritt he will look into it. He speaks with Jim Dersage, the Amtrak representative who works at the dispatch center in SFRTA’s offices, to see if there was an Amtrak train in the same area at the approximate time of the alleged incident. After originally suspecting that P-097 was a possibility, he determined that P-091, which was an hour and a half late, was in the general vicinity. (Tr. 283-284) Yoder also called the VTSI Operations Center and speaks to the On Duty Supervisor to obtain a copy of the P632 trip report that would have been prepared by the VTSI conductor. He also learns that Shawn Ferniss and Patricia Beal were the crew members on P632 on the date of the reported incident. Yoder also asks the conductor if there were any incident reports for P632 on October 20th and was told there were none. (Tr. 284-285)

October 30 (Thursday)

Merritt speaks with Brian Reeves, FDOT’s safety consultant [who has been out since the 24th] about the incident and asks him to look into it. (Tr. 239) Reeves reviewed Amtrak’s conductor log and saw there was a four-minute commuter transportation delay in the vicinity south of Mangonia Park Station and a notation of “P-6.” The delay was not sufficient to cause him to look into the matter further. Reeves finds nothing else in the Amtrak logs to indicate an incident. (Tr. 263)

Yoder obtains a copy of the VTSI conductor’s trip report and it does not include any reference to the alleged incident. (Tr. 318)

At 8:20 a.m. Yoder receives an email from Reeves requesting the video recordings from SFRTA train P632, northbound on October 20th from approximately 5:15 p.m. to 5:45 p.m. (just before the train enters the Mangonia Park Station). Allen responds at 8:28 a.m. saying he is “working on it.” He also tells him that he is pulling reports for Amtrak Train P091. (Tr. 286)

At 8:52 a.m. Yoder emails Reeves to ask him if he can find out what track the Amtrak P091 train was operating on when it passed through the area of the alleged incident. He requested this information from Reeves because FDOT, not SFRTA, has access to the Amtrak reports. (Tr. 286-287)

At 8:53 a.m. Yoder emails Wayne Ramnarine (SFRTA) (and copies Brad Barkman) requesting the interior images from SFRTA train P632. (Tr. 120, 287)

Yoder initially stated that sometime during the day he, Barkman and Reeves decide not to interview the crew, but to wait to view video recording images of the interior of the train. Yoder said he thought they would obtain the video recording the same day. (Tr. 378) Yoder later retracted these statements (see Section 4.b.).

October 31 (Friday)

Ramnarine responds to Yoder's email at 7:04 a.m. and says he will do his best to get the video recordings, but also encourages Yoder to get the software loaded on his laptop and then to get trained on the software so he (Yoder) can access the video recordings directly. (Tr. 120, 288-289)

Reeves sends an email to Yoder at 7:10 a.m. identifying the FDOT employee who was on SFRTA train P632, that the incident occurred on October 20th at approximately 5:30 p.m. and that the female conductor told passengers to move to the back of the train because a possible crash with Amtrak was imminent. He asks whether this could be a confused passenger. He also asks if they can speak with the conductor. (email dated 10/31/08, 7:10 a.m. from Reeves to Yoder)

Emails go back and forth between 7:04 a.m. and 8:18 a.m. between Barkman, Yoder and Ramnarine in Yoder's attempts to get copies of the video recordings from the P632 SFRTA train. (Tr. 287-289)

Yoder said he speaks with Barkman twice about getting the video recordings. (Tr. 288, 290) Barkman does not recall these conversations and says he was not told of the nature of the incident (see Section 4.b.). Yoder later retracted this statement (see Section 4.b.).

Reeves talked to Thurman either on this day or on November 3rd and found her to be a credible witness. (Tr. 272)

November 1 (Saturday); November 2 (Sunday)

It does not appear there was any communication regarding this matter during the weekend.

November 3 (Monday)

Yoder states that he sent further emails Ramnarine asking for the video images that had been requested on Friday. (Tr. 289). Yoder says Barkman insists that images be available the next morning. (Tr. 290)

November 4 (Tuesday)

Barkman and Yoder view the video recording of the interior of the train at approximately 10:30 or 11 a.m. Having seen the interior video recordings, at 11:04 a.m. Yoder sends email to Ramnarine and requests the video recording from the front facing exterior camera for the time period from 1738 to 1750 for train P632 on October 20th. In two emails sent at 11:07 a.m. and 11:27 a.m. Ramnarine responds that Yoder needs to get the software loaded on his laptop and that he, Ramnarine will not make it to the yard today to get the video from the P632 SFRTA train. Yoder responds to Ramnarine at 11:45 a.m. and sends a copy to Barkman to say that the relevant train will be in the Hialeah Yard within the next 20 or 30 minutes and that they need the requested video as soon as possible because this is for an incident investigation. Barkman states that he phones Ramnarine to insist that Ramnarine do whatever is necessary to get the video recordings to Yoder because an investigation is underway. (Tr. 126)

At 12:09 p.m., Barkman downloads the output from the event recorder from October 20th and gives it to Yoder (Tr. 398, 400). [Yoder had previously advised CSXT in interview held on November 6th that he had the download on October 30th or October 31st.] Barkman and Yoder realize from viewing the download coupled with the video recordings that the SFRTA crew did not have time to inspect the train and complete all the actions that are required under the rules following an emergency application. (Tr. 199)

At some point during the day, Reeves hears from Yoder that SFRTA has reviewed the video recording and he (Reeves) goes to SFRTA office mid-day to view the video recording. (Tr. 265, 275)

The video recording from the exterior of the train arrives at SFRTA office at around 4 p.m. Barkman calls Manger and tells him to come to see the video recordings because "you really need to see this." (Tr. 129) Manger comes to see the video recordings, then picks up Joe Wall at the airport and the two return to SFRTA by approximately 5 p.m. Barkman asks Manger to pull reports from the Amtrak train. Birckett receives a call from Yoder at about 4:15 p.m. when he was on the train on the way home. Yoder asks Birckett to get off the train at Pompano Beach and to come to the SFRTA office to see the video recordings. Birckett comes to Yoder's office and views the video recordings for the first time. After watching both the interior and exterior video recordings, he tells Yoder and Barkman that this is the first time he has heard of this. (Tr. 38) He calls Salemme, tells him to find out who was on Train P632 on October 20th and to hold that crew out of service. He realizes while watching the video recordings that there was a rules violation because the train was backing up. Salemme calls Stokes and tells him to find Beal and remove her from service. (Tr. 421). Salemme calls Ferniss and leaves him a voicemail message telling him he is removed from service pending the outcome of an investigation to be held at a later date. (Tr. 422). Salemme states that Stokes spoke with Beal and removed her from service. (Tr. 424).

Barkman has further discussions with Amtrak personnel, including Tom Fortune. He confirms that Amtrak is arranging for its crew to be met and have statements taken and be taken out of service pending investigation. (Tr. 132-133). Barkman also receives confirmation that Amtrak will call CSXT and inform them of the incident. (Tr. 133)

Yoder reports that he and others were attempting to determine whether there had been communications between the Amtrak and VTSI crews when this incident occurred. (Tr. 296). Yoder is told to await information about whether the crews communicated with each other from CSXT investigation. (Tr. 298).

Joseph Giuliatti (SFRTA) first hears that there is a "situation" when he hears a voice mail message from Jack Stephens (SFRTA) that Stephens left on his phone at 5:51 p.m. Giuliatti calls Stephens back at 5:55 p.m. Stephens tells him that he is in a room with Barkman, Birckett, Manger and others and that they are reviewing a video recording that shows a near miss between an Amtrak train and a SFRTA train. Stephens then hands the phone to Barkman, who explains that they had previously received a report of an incident, that there had been no indication on reports of an incident, but that they had now learned more details and gotten the video recordings which showed a near miss south of Mangonia Park in an interlocking and that the crews' reports did not include any mention of the incident. Giuliatti tells Barkman to get information on the status of the crews as soon as possible. Giuliatti and Barkman speak again at 6:39 p.m., and Barkman reports that both Amtrak and VTSI are tracking down the crews. Barkman and Giuliatti speak again at 8:39 p.m. and Barkman reports that VTSI had taken its crew out of service and that Amtrak intends to pull its crew out of service. Giuliatti phones John Gibson (CSXT) at 8:45 p.m. to report that he (Giuliatti) will be phoning FRA in the morning. Barkman receives a call from Gibson and Barkman tells him that he and Giuliatti have agreed that SFRTA will call FRA in the morning. (Tr. 8-10)

Barkman attempts to call Giuliatti again at 10:30 p.m., and leaves a message at 11:14 p.m. confirming that VTSI has pulled its crew and Amtrak has contacted its crew. Barkman also leaves a copy of the video recordings at the Amtrak dispatch center before leaving for the night. (Tr. 10-11)

November 5 (Wednesday)

Gibson advises Giuliatti at 7:19 a.m. that CSXT is beginning an investigation. Barkman calls Fred Dennin (FRA) at 7:40 a.m. (Tr. 137) to tell him that there's been a near miss, and that SFRTA has video recordings documenting the event. Giuliatti calls Dennin at 7:39 a.m. and Dennin advises that he has already learned of the incident from Barkman. Giuliatti calls Fred Wise (FDOT) at 8:03 a.m. to let him know that SFRTA is conducting an investigation. Giuliatti calls Ron Hartman (VTSI) at 10:15 a.m. to ensure that VTSI was aware at the corporate level of what was happening and to discuss how VTSI was going to respond to the investigations and to the pulling of the crews. Giuliatti calls Jim Wolfe (FDOT) to ensure that he is aware of the situation.

Birckett, Salemmme and Doug Stencil (VTSI's Manager of Safety and Training) meet at the office at approximately 7 a.m. and discuss the incident. Birckett explains what he had seen on the video recordings. Gus Solages (VTSI Road Foreman) joins the discussion. Salemmme and Stencil report that this was the first they knew of the incident. The four agreed that CSXT was coming later that day and that they would discuss the matter later. CSXT had already been scheduled to come for some joint testing on that morning (Tr. 43). Birckett tells Salemmme to take the lead on the investigation and tells Stencil to review the Tests and Observations ("T&O's"). The meeting with CSXT about joint testing was cancelled and the CSXT meeting turned into a session in which Don Jones (CSXT) was asking questions about what had happened. Birckett tells Jones at that time that he had first learned of the incident on Monday, November 3 (Birckett made a different statement at the hearing on Friday, November 7th – see Tr. 45).

While en route to the meeting with CSXT, Barkman forwards the voicemail messages that he had received from Merritt on October 23rd to Giulietti. Barkman states that he did not realize until he forwarded these voicemail messages to Giulietti that he had received not one, but two voicemail messages from Merritt on that day. (Tr. 112). [Barkman states that he first listened to the second voicemail message from Merritt while on the way to the meeting and as a result was able to tell CSXT about it at that meeting. (Tr. 230-231)]

Meeting with CSXT, VTSI and SFRTA representatives convenes at about 1:30. (Tr. 139) Present at the meeting are Birckett, Salemmme, Jones, Jeff Miller (CSX), Rob Brownell (CSX), Manger, Wall, Barkman. Discussion at that meeting focuses on the processes available to VTSI and SFRTA to learn of incidents and on what had happened with respect to this incident. Barkman leaves the meeting early to go to a doctor's appointment. (Tr. 140)

Birckett leaves the meeting with CSX before it is over and speaks to Hartman, who asks him to have informal discussions with the crews before the formal discussion with the unions. (Tr. 46) Birckett has a discussion with Mr. Ferniss later that evening. (Tr. 50)

When Stokes comes into the office later in the afternoon, Birckett explains what he had seen on the video recordings. Birckett reports that Stokes told him at that time that was the first he had known of a train stopping or of a rule violation. (Tr. 41, 52)

At 3:20 p.m., Giulietti calls Manger to seek assurance that the crew had been held out of service. Manger returns the call at 3:37 p.m. and provides assurances that the Amtrak crew would be held out of service until an investigation was held. Giulietti calls Wolfe again at 4:08 p.m. to tell him that SFRTA had barred the VTSI employees, and to ask FDOT to send a letter to Amtrak barring the Amtrak crews. Giulietti calls Gibson again at 4:41 p.m., 5:06 p.m. and 5:07 p.m. When the two speak, Gibson states that CSXT would assure that the Amtrak crew would not return. Giulietti sends an email to Hartman at 5:46 p.m. confirming that the VTSI crew was to be

held out of service and speaks to Hartman at 5:47 p.m., who acknowledges receipt and pledges full cooperation. (Tr. 12-14)

CSXT begins a preliminary investigation of the managerial response.

November 6 (Thursday)

Birckett has further conversations with VTSI personnel in which he recalls a discussion that he had overheard “a week or so ago” between Barkman and Salemmé about an incident on a train in which a passenger had reported a conductor running through the train saying “brace yourself”. (Tr. 53-55)

VTSI and union representatives take official statements from the VTSI crew. VTSI and CSXT personnel were present along with the union representative, Andy D’Egidio, and FRA representatives. (Tr. 96)

Yoder discusses the incident with Stencil to review the facts of what had happened. (Tr. 320-321).

Based on SFRTA’s request for a more extensive investigation on November 5th, SFRTA, CSXT and VTSI begin a comprehensive investigation of the managerial response to the incident.

November 10 (Monday)

Comprehensive joint investigation completed.

b. Additional Information Regarding Events (based on SFRTA Internal Investigation)

November 11-17, 2008 (Tuesday - Monday)

An internal SFRTA investigation was conducted and completed between November 11th and 17th. A summary of this internal investigation follows.

Brad Barkman

Barkman was interviewed regarding statements made by Yoder during the Joint Investigation about contacts he had with Barkman relating to obtaining the video from P632, and Yoder’s statement that Barkman had told him to hold off doing interviews with the P632 crew until after the video had been obtained from the train.

Barkman denied having had any communications with Yoder about interviewing the train crew and restated that he only made the connection between the phone call from Merritt regarding

the conductor running through the train and the incident Yoder was looking into when he viewed the video recordings on November 4th.

There are no emails confirming Yoder's statement that he had emailed Barkman on October 31st and November 3rd asking for assistance in obtaining the video recordings.

After being interviewed, Barkman advised that he listened to the voice recording of a meeting of the Joint Services Committee held at 1:30 p.m. on October 23, 2008.⁴ Prior to the start of the meeting, Barkman related to those present that he had received information from FDOT that a conductor had run through a train warning of a possible collision. The following is a verbatim transcript of his comments at the JSC meeting:

"I've got to tell you a funny story. I got a call yesterday from – you know about this [apparently to Allen Yoder] – I got a call yesterday from FDOT and he said someone had called and reported that a conductor was running through the train saying they were about to hit a freight train get down and protect yourself, prepare yourself, OK. I said, 'What!' So we go through this whole thing so, of course, I call Victor. I said Vic I think I think I remember seeing something about a pedestrian or something but I said ... I don't - you know, look into this and see if there's anything to it or whatever so he's scouting around (inaudible) and not finding anything and here about an hour ago we got a call from FDOT. Apparently what it was it was the drill so I don't know if we had a passenger that got on that train that actually witnessed this conductor that was doing the simulation running through the train saying we're going to hit a freight train or what the hell happened. I can't imagine how that happened either but, you know, FDOT said they got a call ..."

Wayne Ramnarine

Ramnarine was questioned about his handling of Allen Yoder's request for a video download from P632, which had been made on October 30th. Ramnarine said he determined that P632 would be in Hialeah Yard on the next morning – October 31st. He made the download on October 31st. Initially Ramnarine said he provided the downloaded video to Yoder on October 31st although he could not recall how the video was transmitted. It was confirmed, however, that the video recording was actually delivered by Ramnarine to Mike Jones, SFRTA's Safety and Security Specialist, on the morning of November 4th. Ramnarine said Yoder's request did not indicate a sense of urgency.⁵ He said requests for information must be approved by Barkman, although there is no communication indicated Ramnarine sought or obtained Barkman's

⁴ According to the sign-in sheet, the attendees were: Brad Barkman, SFRTA; Sid Birckett, Veolia; Chip Dobson, CSX; Paul Manger, Amtrak; Ralph Rapa, Veolia; Victor Salemme, Veolia; Zachary Collings; John Thompson, Veolia; Mike Heffner, Bombardier; Jeff Gaffney; Maggie Ferrara, SFRTA; E. Goodman.

⁵ Yoder's email stated: "We are looking into an incident that occurred on P632 on Oct 20th. Can you provide images from cab car 504, lower level and mid level from 1734 to 1745."

approval to release the video recordings to Yoder. Barkman was copied on Yoder's original email request to Ramnarine and subsequent emails between Ramnarine and Yoder. Barkman also by email dated October 31st directed Yoder to obtain training to be able to download video from the trains. He also directed Ramnarine in the same email to see that Veolia was also able to download video recordings.

Ramnarine noted that when Barkman made an urgent request for a second video recording on November 4th, Ramnarine, who was in West Palm Beach when he received Barkman's call, contacted representatives for the video system vendor, who were performing punchlist items on P632 at the Hialeah Yard, and had them download the video recordings. Ramnarine also made arrangements to have the download transmitted to SFRTA headquarters by a Wackenhut guard. Ramnarine also received an email from Yoder on November 4th asking for video from the front-facing camera.⁶

Allen Yoder

Yoder was questioned about statements he made during the Joint Investigation about contacts he had with Barkman relating to obtaining video from P632 (Tr. 288-290), and Yoder's statement that Barkman had told him to hold off doing interviews with the P632 crew until after the video had been obtained from the train (Tr. 366; 378-379).

It was noted that in the Joint Investigation Yoder had initially said he obtained from Barkman a download showing an emergency application of the brakes on P632 on October 30th. Upon Yoder subsequently producing a copy of the download, it was noted that the download had been printed on November 4th.⁷ (Tr. 396, 398) Yoder said the download he produced was the original given to him by Barkman. Barkman also stated he printed the download on November 4th. The download confirmed a more serious incident had occurred.

In his Joint Investigation statement, Yoder said: "At the time that I knew of the download I said we should get statements from the crew. As a committee, Brian Reeves, Brad Barkman and myself, we decided to wait and get the images." (Tr. 378)

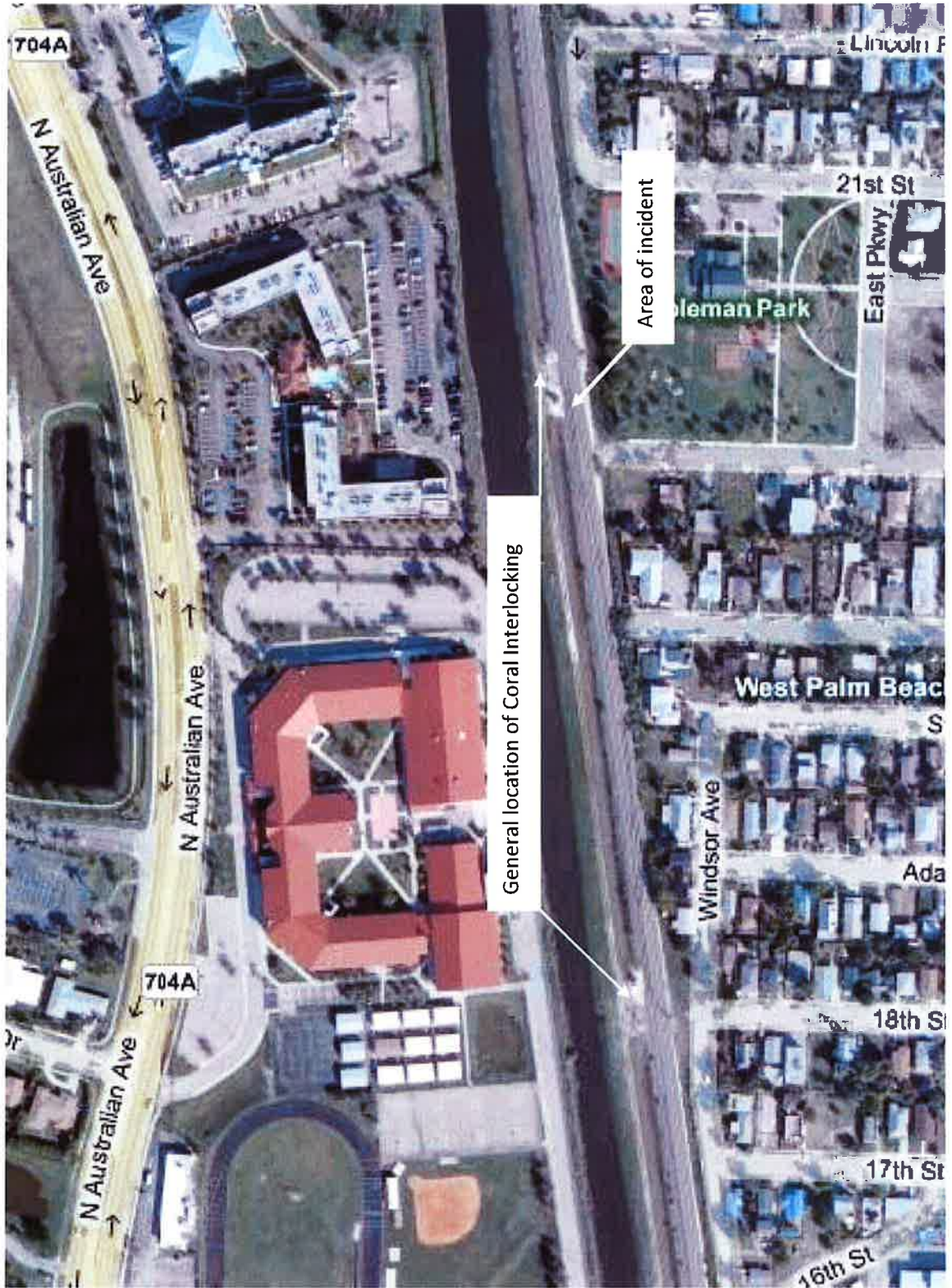
Realizing that he hadn't seen the download until November 4th, the date the video recording was actually obtained, Yoder said he misspoke when he said Barkman told him not to interview the crew until the video recording was obtained. Confronted with the absence of any supporting

⁶ Yoder's email stated: "Cab car 504 will be in the yard in the next 20 or 30 minutes. It is an investigation of a critical incident. We need those the (sic) requested images asap."

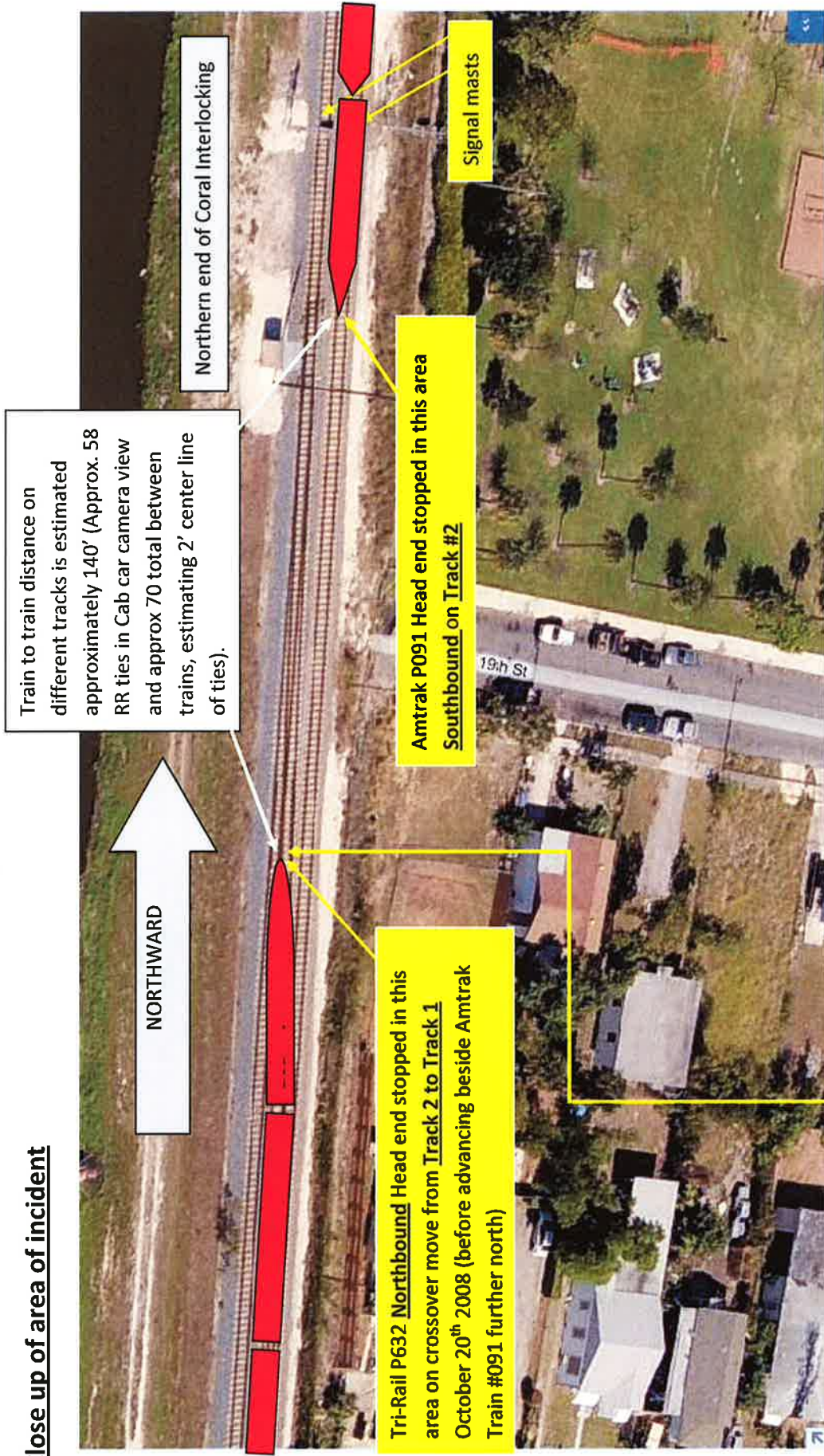
⁷ Independent of the incident inquiry, Barkman had made a download from P632 on October 21st showing a problem with event recorder's train speed data. Yoder appears to confuse this download with the later download showing the emergency brake application, Yoder said, "There were anomalies on the download that don't make it accurate. I mentioned that before. There's no speed registered." (Tr. 385)

emails, Yoder also acknowledged that he had not contacted Barkman on October 31st and November 3rd to obtain his assistance in getting Ramnarine to provide the video recordings.

Exhibit 1
Diagrams of Train Locations and Pictures of Incident



Close up of area of incident



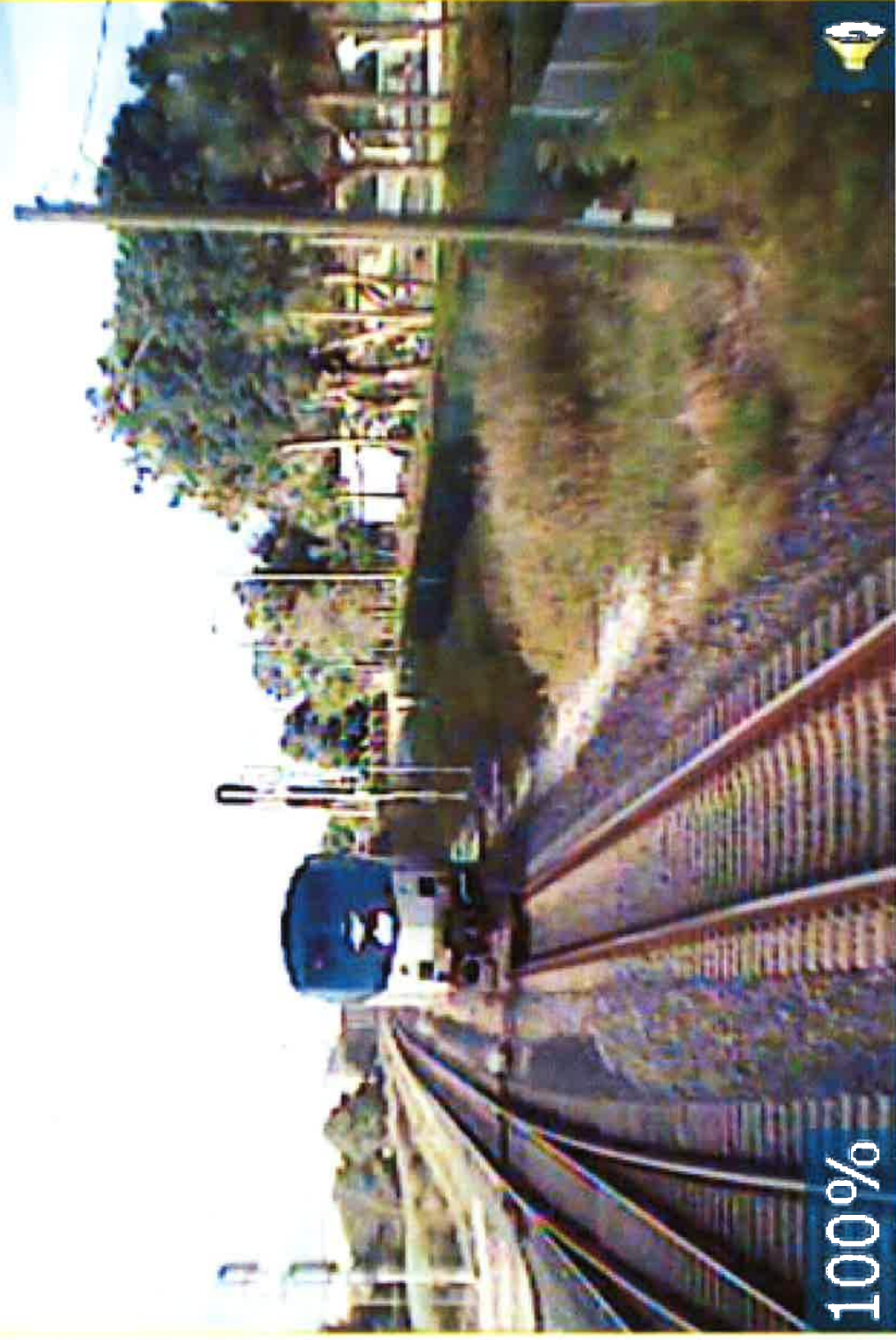
P632 train view, head end Cab car 504 looking north toward north end of Coral Interlocking at Amtrak P091. (larger photo on next page).



[001] 504_Front

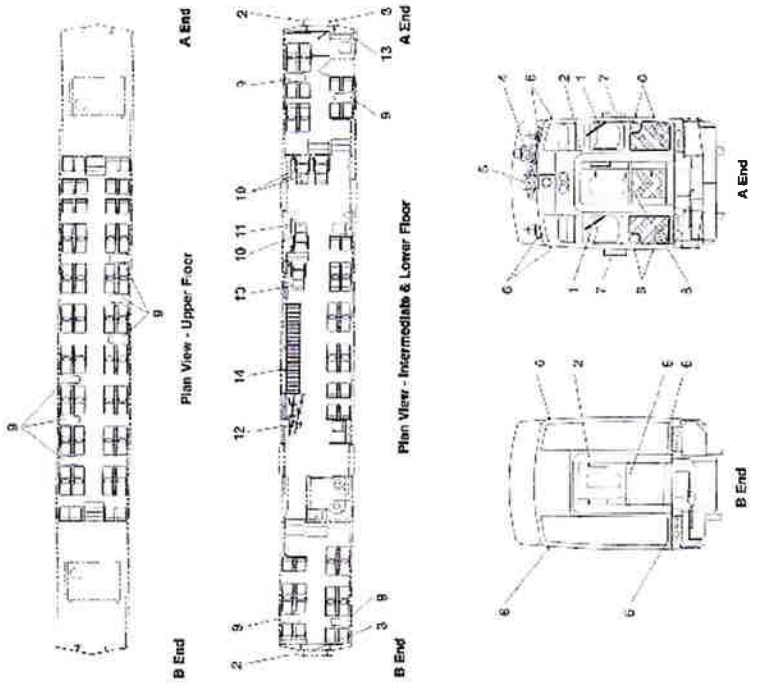
17:40:04.76 Paused

[1]



100%





208-2236

Figure 2-1-7
Accessory Components

2-1-1R

208RMK1258

Exhibit 2
List of Interviewed Individuals

Joseph Giuliatti (SFRTA Executive Director)
Sid Birckett (VTSI General Manager for SFRTA contract)
Bradley Barkman (SFRTA Director of Operations)
Larry Merritt (FDOT/District 4 Multimodal Program Manager)
Brian Reeves (FDOT Contractor/Safety)
Allen Yoder (SFRTA Safety Security Administrator)
Gwandine Thurman (FDOT paralegal)
Victor Salemme (VTSI Superintendant of Operations)
Daniel (D.C.) Stokes (VTSI Road Foreman)
Jim Sharpe (VTSI _____)

Exhibit 3

Summary Timeline

October 17 (Friday)

SFRTA stages a mock emergency evacuation drill.

October 20 (Monday)

5:30 p.m. - Incident occurs.

October 21 (Tuesday)

FDOT District IV Paralegal Gwandine Thurman was a passenger on P632 at the time of the incident on October 20th. She sends an email to "D4-Legal" describing the incident.

October 22 (Wednesday)

Time unknown – Larry Merritt (FDOT) learns of an incident onboard a Tri-Rail train from Nancy Ziegler (FDOT) during a staff meeting.

3:55 p.m. - Merritt calls Brad Barkman (SFRTA) regarding information he has obtained of a possible incident during the AM peak hours on October 21st.

3:58 p.m. - Barkman calls Victor Salemme (VTSI) and tells him that "you've got to look into this." DC Stokes (VTSI) is in the room during the call and tells Salemme he will look into it.

Time unknown – Apparently, Barkman speaks with Merritt and advises him he can find no incident on October 21st.

5:17 p.m. - Barkman receives an email from Merritt saying "you are correct" that the "supposed" incident occurred during the AM peak hours on October 22nd.

Sometime after 5:17 p.m. - Barkman either calls or leaves a voicemail for Salemme asking him to continue to pursue the matter and asking if he had "talked to his [VTSI's] people."

October 23 (Thursday)

7:40 a.m. - Salemme sends an email to Barkman saying he has not found a record of any incident that they discussed on October 22nd.

7:46 a.m. - Salemme sends a second email saying that he intends to research the records “further back than yesterday.”

7:47 a.m. - Barkman responds to Salemme’s 7:40 a.m. email thanking him and copies Merritt on his response.

8:21 a.m. - Merritt responds to Barkman’s email and thanks both Barkman and Salemme for researching the matter.

8:23 a.m. - Barkman calls Salemme. Salemme says they discussed Merritt’s inquiry and the fact that SFRTA had just conducted an “evacuation train” or disaster drill on October 17th with volunteers that included a scenario similar to the incident reported to FDOT. Salemme says that Barkman said to “hold off.”

9:37 a.m. - Voicemail sent from Merritt asking Barkman to “... hold off looking into that incident ...” until he gets more information.

10:13 a.m. - Merritt again calls Barkman and leaves a second voicemail with more detailed information regarding the incident. Barkman listens to the 9:37 voicemail message, but not the second.

11 a.m. – Barkman attends daily teleconference call with Veolia, Bombardier, CSXT and FDOT. The incident is not discussed.

1:30 p.m. – Barkman attends the Joint Services Committee meeting also attended by Veolia, CSX, Bombardier. Barkman tells the attendees he received a call from FDOT about an hour ago about the incident. “Apparently what it was it was the drill so I don’t know if we had a passenger that got on that train that actually witnessed this conductor that was doing the simulation running through the train saying we’re going to hit a freight train or what the hell happened.”

That afternoon - Stokes calls Jim Sharpe (Sharpe was not sure if this call occurred on October 23rd or 24th). Based on the call Stokes thought Sharpe was interviewing the crew. Sharpe says Stokes did not ask him to do interviews.

October 24 (Friday)

Time unknown - Stokes calls Salemme and asks if he has heard anything on this issue. Salemme tells Stokes Barkman said hold off, don’t go any further until you hear from us.

October 27 (Monday)

Time unknown - According to Stokes, Sharpe asked him if Stokes had talked with Beal. It is at that time, according to Stokes, that he realized that no one had interviewed the train crew.

October 29 (Wednesday)

2:17 p.m. - SFRTA Safety and Security Administrator Allen Yoder received a call from Merritt asking him to look into the incident. Yoder begins to compile information. Yoder begins compiling reports. He also learns that Shawn Ferniss and Patricia Beal were the crew members on P632 on the date of the reported incident.

October 30 (Thursday)

Sometime before 8:20 a.m. - Merritt speaks with Brian Reeves, FDOT's rail consultant about the incident and asks him to look into it. Reeves begins reviewing train logs.

8:20 a.m. - Yoder receives an email from Reeves requesting the video from SFRTA train P632, northbound on October 20th from approximately 5:15 p.m. to 5:45 p.m.

8:52 a.m. - Yoder emails Reeves to ask him if he can find out what track the Amtrak P091 train was operating on when it passed through the area of the alleged incident.

8:53 a.m. - Yoder emails Wayne Ramnarine, SFRTA Technical Project Manager, requesting the interior video images from SFRTA train P632.

October 31 (Friday)

7:04 a.m. - Ramnarine responds to Yoder's email and says he'll do his best to get the video.

7:10 a.m. - Reeves sends an email to Yoder identifying the FDOT employee who was on SFRTA train P632.

7:04 - 8:18 a.m. - Emails go back and forth between Barkman, Yoder and Ramnarine regarding the video from the P632 SFRTA train.

9:55 a.m. - P632 scheduled to arrive at Hialeah Yard. Ramnarine downloads video from P632 sometime later that day.

November 1 (Saturday)

No communication.

November 2 (Sunday)

No communication.

November 3 (Monday)

Apparently waiting for the video.

November 4 (Tuesday)

10:30 – 11 a.m. – The requested video is delivered to SFRTA office by Ramnarine. Barkman and Yoder view the video of the interior of the train.

11:04 a.m. - Yoder sends email to Ramnarine and requests video from the front facing exterior camera for the time period from 1738 to 1750 for train P632 on October 20th .

Around noon – Cab Car 504 scheduled to arrive in Hialeah Yard.

12:09 p.m. - Barkman downloads the output from P632's event recorder from October 20th and gives it to Yoder . Download shows an emergency application of the brakes on October 20th.

Time unknown – Ramnarine arranges for Aware Digital to download the video and a Wackenhut officer to transport it to SFRTA office.

4 p.m. (approx.) - The video from the exterior of the train arrives at SFRTA office. It is viewed by multiple parties over the next hour and a half. Barkman also receives confirmation that Amtrak will call CSXT and inform them of the incident.

4:15 p.m. - Sid Birckett of Veolia receives a call from Yoder while on the train on the way home. He gets off at the Pompano Beach station. Birckett views the video and afterward calls Salemme and tells him to find out who was on Train P632 on October 20 and to hold that crew out of service.

5:51 p.m. - Joe Giulietti notified of the incident in a voice mail message left by Jack Stephens (SFRTA).

8:45 p.m. - Giulietti phones John Gibson (CSXT) at 8:45 to report that he (Giulietti) will be phoning FRA in the morning.

November 5 (Wednesday)

7:19 a.m. – Gibson tells Giulietti that CSXT is beginning an investigation.

7:40 a.m. - Barkman calls Fred Dennin at the FRA to notify him of the incident.

8:03 a.m. - Giulietti calls Fred Wise (FDOT).

November 7 (Friday)

Joint investigation begins.

November 10 (Monday)

Joint Investigation completed.