ROAD SAFETY COMMITTEE

Inquiry into Safety at Level Crossings

Melbourne—3 March 2008

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Witnesses

Mr P. Foley, Deputy Director, Surface Safety Investigation, Australian Transport Safety Bureau.

The CHAIR—Welcome to the public hearings of the Road Safety Committee's inquiry into level crossings. All evidence taken at this hearing is protected by parliamentary privilege as provided by the Constitution Act 1975 and further subject to the provisions of the Parliamentary Committees Act 2003. Having said that, any comments that you make outside the hearing may not be afforded such privilege and we are recording, as you can see, the evidence and we will provide a proof version of *Hansard* transcript at the earliest opportunity so you can correct it as appropriate. Members of the committee here today are Terry Mulder, Craig Langdon, myself John Eren, Paul Weller, and Ian Tresize; our executive officer Alex Douglas and our research officer Laurie Groom. If you could state your name and organisation that you belong to and proceed with your presentation and we will ask questions as we go.

Mr FOLEY—Thank you, John. My name is Peter Foley, I am the deputy director of surface safety investigations at the Australian Transport Safety Bureau. Our role is essentially to investigate rail accidents that occur on a defined interstate rail network. That limits our jurisdiction somewhat in Victoria to those areas which are defined as part of the [DIRN] which is interstate rail lines. As a broad brush stroke, we have officers on what we do in the rail safety unit within the [ATSB]. We have about eight full-time investigators who are drawn from various rail disciplines. In addition to those we have the support of technical analysis areas within the bureau which are multi-modal human factors areas, which Alan Osborne referred to earlier, and a bunch of other things that you get with a critical mass the size of the ATSB. We currently have about 60 investigators across all modes. In the event of a large-scale accident we routinely call upon other disciplines, other modes to assist us, perhaps rail or marine.

My responsibility covers both marine investigations and rail investigations. Our rail investigators are based in two regional offices and a head office in Canberra. We have four guys in Adelaide which is the geographical centre of our jurisdiction. We have one guy in Brisbane and three guys in Canberra, and four if you include me as well. Essentially in rail we are funded—our [PBS] says that we do 10 new investigations every year and that obviously means that we release around about 10 accident reports every year. In addition to that we have another role in rail which is the repository and the publisher of the National Rail Occurrence Database which is provided to us by the rail safety regulators via the chair of the panel. We publish that data and we have data now going back from mid-2007 back to 2001 which is high level event data in six categories of rail occurrence plus deaths and serious injuries.

In addition to that we occasionally do proactive work and at the moment we are in the process of producing a level crossing safety bulletin targeted at heavy vehicle industry primarily, but in consultation with peak truck industry associations and indeed the ARA. We have scope to do that work when things are a little quieter. At the moment we have critical mass, if you will, on level crossing accidents. We have decided that a lot of the issues, and the higher-risk issues, are those associated with heavy vehicles and as a result we have decided to target the heavy vehicle industry directly.

Our core business, up until 18 months or two years or so ago was not necessarily to look at road aspects of a level crossing accident. Our rail safety unit is just that. It is centred on investigating the issues associated with the rail portion of a collision. We made a conscious decision about two years ago to start looking at road user behaviours and analysing some of those facets of the motorist which were causal in the accident, primarily because we found in large part most of our accidents are caused primarily by the motorist. The train drivers are the unwilling participants in such accidents more often than not; not every time but almost every time.

Mr LANGDON—What were the causes you picked up for the train to be at fault?

Mr FOLEY—There was an incident in Kalgoorlie involving a signal failure of some maintenance work that was done in Kalgoorlie on the signal system.

Mr LANGDON—It wasn't the train itself, it was the—

Mr FOLEY—It was not the train itself, it was the rail interface, or the way in which they managed that maintenance which led to a failure of the protections at a crossing which led to a collision at the crossing. That is the only one that I can recall where there was clear causality on the part of the rail side of things. Essentially, working through the submission, this was put together by one of my rail team. It talks about a number of things, including the current standards, which is with respect to manual and uniform traffic control

devices, part 7, which is AS1742.7. We use it extensively to assess compliance of crossings when we are doing an investigation. If you have read some of ours—and I will table these if you like. This is a bunch of our recent rail investigation reports. If you look through them, every time we do an assessment of the protections at the crossing there has been a propensity for accidents to occur at passively controlled level crossings and in those instances it is fairly critical that the signage and the warnings for motorists approaching the crossings are adequate, indeed the sighting distances for motorists using those stops, and crossings protected by a stop sign or a give way sign are adequate.

We have looked at the standard every time, we have also looked at the issues—the human factor issues, which are the things that we find on motorist behaviour which require explanation; why people miss seeing approach signage; why people wilfully and knowingly, occasionally, violate a stop sign protection, for example, which leads to a collision. We have looked at a lot of those issues. More often than not it is unintended driver error. Our monograph in 2002 indicated about 46 per cent of our level crossing collisions are caused by motorists making an unintended error, but there are also those— particularly we have found in recent times in the heavy vehicle industry—who perform or execute what is called a rolling stop which for whatever reason is an unsafe practice at that particular crossing. A good example, or a bad example if you will, is the Ban Ban Springs investigation that we have released. It highlights a lot of those issues.

We have pointed out a number of things with respect to the standard which are not necessarily deficiencies but areas in which the current standard, which might I say is much better than previous standards because it pulls together a lot of those sighting standards and the like from various jurisdictions into one place, but areas where it is less prescriptive and areas in which it is inconsistent and perhaps could be improved. These are in relation to things like sighting distance provisions for active crossings, for example. The standard does not refer to active crossings as such in the sighting distance provisions, where it does for passive crossings. You can interpolate the standard would apply to both but it is not overtly stated.

Road design and the approaches to level crossings is also an issue. While there is some guidance in the AustRoads manual, it is not resident within the rail standard. Environmental conditions is another issue that we have highlighted there. Once again it talks about active advance warning for areas where it is difficult to sight an actively protected crossing, flashing light, for example. But it is not really prescriptive enough or descriptive enough to nominate a required standard.

Other parts of the submission refer to the current use of ALCAM. No doubt you have heard quite a lot about ALCAM in assessing level crossings and the like. Once again, what we do as a part of the investigation process is to go back and have a look at the one in which the crossing has been assessed in the past, the sorts of protections or where it ranks on the list of interventions, the sorts of protections that may have been considered. We look at past accident history which is something that ALCAM does not necessarily consider. It was considered in the past. Overall we feel that ALCAM is a significant step in the right direction. It is a useful model that considers a lot of things that are necessary to consider when you are assessing a crossing. It treats crossing as an individual which is absolutely necessary, and uses 70-odd parameters, if you will, to assess the safety of that crossing and to rank that crossing in order of its need for intervention or on your list of interventions.

The CHAIR—In relation to that, what improvements do you think are necessary to maintain the ongoing development of ALCAM?

Mr FOLEY—Some of the things that have been kicked around—and I was a rail safety conference last week here, as a matter of fact—talked about developing ALCAM as a more risk based assessment. It does not take into account, perhaps as well as it could, the consequences of an accident at a particular site. Alan indicated the difference between a single accident involving 11 fatalities, like Kerang, and perhaps 11 accidents involving a single fatality. Our consciousness is quite different, but it is different for a good reason. That sort of tragedy, people expect rightly that governments are going to take the lead on implementing things to see that it does not occur again. There was some talk about that where ALCAM can be better massaged. I know it takes into account the types of vehicles that are using it—school buses and the like—and the types of trains perhaps that are using it—passenger trains obviously rank higher than straight freight lines, for example. The consequences perhaps could be considered a little more.

I do not doubt you have thought about those facets already. The model is a very good one. It is very much better than what has existed in the past. There is little doubt that the current practitioners who are using ALCAM on a day-to-day basis and doing it very well—like the level crossing unit in South Australia, for example, who have instigated a number of improvements to the functionality of the model—would point out that there are still areas which could probably be improved. But, as I say, it is our opinion that it is an excellent model.

Mr MULDER—Does ALCAM set minimum requirements? Is that what it is based on, by the minimum requirements of a level crossing?

Mr FOLEY—No, it does not set minimum requirements. The minimum requirements are set by the standards. The standards vary from time to time, Terry. The current Australian standard came in in February 2007, and crossings that have not been upgraded since that time are probably only compliant with an older standard, a previous standard. ALCAM considers everything associated with a crossing—things like the traffic flows, the geometry, the types of signage used; the types of traffic; some environmental factors as well, things like fog which is contraindicated in our Lismore investigation which was a big one here for the rail industry, one death but $30-odd million worth of damage and significant downtime on the DIRN. It considers all those factors and then ranks a crossing. It gives a risk score and then ranks the crossing in your jurisdiction, generally the state, in order of the need for intervention. While it is a crossing comparison with the standards, it is more aimed at ranking a crossing in the overall scheme of things.

Some other things we talked about in our submission was the use of audible devices. There is some pretty compelling evidence that talks about a train horn and sound pressures within cabins, in modern vehicles and the possible effectiveness of train horns in alerting motorists. You have to understand that when a train driver sees a car that is crossing a crossing in front of him, there is very little he can do aside from sound the horn to try and alert that driver if he looks as though he is going to do the wrong thing or he has not seen the train, and alternatively put the emergency brakes on, but almost always the braking effort does not become effective before the collision occurs. While train horns are that last-ditch effort to alert a driver of a motor vehicle, their effectiveness is fairly limited because people typically have airconditioning, if it is a hot day, for example; or even a cold day with the windows wound up; they have the music going in the car; road noise; engine noise, all of those things.

Mr LANGDON—Wearing iPods these days make it even more difficult.

Mr FOLEY—In the case of pedestrians, yes, that is an issue.

Mr LANGDON—Well, even drivers wear iPods.

Mr FOLEY—Yes. The effectiveness of train horns is not questionable but there is data both ways. They talked about train horn bans in the States—and we dealt with it in Ban Ban Springs where we looked at the research—the federal railway administration over there put on train horn bans in built-up areas for a period of time and it was shown demographically that those areas had a higher rate of collisions at level crossings in the subsequent year. That is evidence for, if you will, and there is other evidence against where there have been trials done of the audibility of train horns within passenger vehicles. Once again I point out that that discussion is largely within the Ban Ban Springs investigation report and is worth reading when you are considering that issue.

Mr TRESIZE—Peter, what about the visibility of trains. I know your organisation has addressed that in a couple of your investigations as well.

Mr FOLEY—We have looked at that and we have found that to be causal; not necessarily causal but a factor or a safety issue in a couple of instances where locomotives may have been painted blue, for example.

Mr LANGDON—Or grey.

Mr FOLEY—Colours that are not necessarily highly visible. I know there is a bunch of work being done in the rail industry with having flashing ditch lights. It is fairly standard these days when they sound the

train horn. The ditch lights either side strobe, so that is alerting visibly as well as audibly at that time as a train approaches a crossing. There was a study that was done some years ago commissioned by the federal government which was the Neville report which looked at some of the issues associated with train conspicuity. There were talks about fitting trains with strobe lights and the like. Some of the other work that has been done usefully on train conspicuity is work that was done by the Canadians in Operation Lifesaver where they fitted high-intensity retro-reflective strips to the side of freight wagons, and they have also done it on the backside of crossing signs. What you get is a flicker effect on passive crossings when you approach at night. It is a flicker effect as the wagons pass. It is one of the measures that they took which on the face of it is relatively low cost and effective at some of these country crossings at night where you have dark freight wagons blending into the background, and motorists coming up to a crossing and not seeing a train and colliding with the side of the train. It has certainly been an issue in the past. There is some work on train conspicuity and high visibility for trains and rolling stock.

Mr WELLER—Has there been research done that show that certain colours are safer than others?

Mr FOLEY—I do not doubt the research exists. I am not aware of it. My human factors people might be able to point to something that is not necessarily in the rail context but in some other context which compares the visibility of colours. It obviously depends largely—in daylight—on the background setting. The position of the sun can have a major influence. We did some work, as you were aware, on Kerang and the direction of the sun at that time would have had a deleterious effect on the ability to be able to see that train. The train was red, it was the position of the sun. There is, no doubt, some work in various forums on what is a good colour. As I say, I am not aware of any—

Mr TRESIZE—There are no standards or regulations in relation to colours?

Mr FOLEY—Not that I am aware of, no. That comes to the end of my submission. I am happy to take questions. From our perspective it was a brief gallop through some of the things that we have identified when we have done investigations. There is a lot more within our investigations in terms of the causal factors. We clearly support the initiatives of the ARA in their level crossing safety strategy which has been ratified by ATC because we feel that the approach is sensible. It is one thing to educate, it is another to engineer out the risk, and it is another thing to enforce it out and to enforce compliance, for example, at crossings where people do not see a copper so they floor it through a stop sign at a crossing. None of those things on their own are going to be effective. You need a longer-term view about the way in which you manage the issue. Part of that is gathering accurate data on the number of near misses that you are getting. Anecdotally there is lots of evidence out there from train drivers of noncompliant behaviour at crossings. It is just that, it is anecdotal. There is not really a good measure of the number of near misses or near hits that are occurring at level crossings.

Pacific National, I know, are looking at fitting cameras to their locomotives so that they have forward facing cameras and they can videotape noncompliant behaviour at level crossings. That is one initiative which will serve to gather better data on what is happening out there on the roads.

The CHAIR—Does your organisation have the power to direct introduction of safety technology either on a train or at a level crossing?

Mr FOLEY—No. Our recommendations that flow from our investigations—we cannot insist on compliance with our recommendations. What we do is we make a recommendation to the relevant body, whether it be an authority or an operator and then typically what we do is we circulate that in a draft, and typically they will come back to us and tell us what they have done to address the safety issue that we have identified. They are non-prescriptive. We outline what the safety issue is, as we see it, and then we record what safety action they may have taken in the final report. What we try to do is get early safety action on the issues that we identify and the quid pro quo, of course, is that we report it at the end of the process, that an operator or the administration can have recorded in the final report what they have done to address it. We get a high degree of compliance with that methodology. We routinely chase up what happens with our recommendations once we have completed an investigation further down the track. On issues like level crossing safety which are contentious and contemporary, we routinely follow those sorts of things up. If we see it as being an ongoing safety issue we will chase it up.

Where we identify in the investigation process a safety issue that needs urgent action, we will release an interim report which will include the safety issue and a recommendation to address it. That occurred on Ban Ban Springs when we did a number of trials with very long road trains. It does not affect Victoria but four-trailer road trains up there were identified as an issue in terms of their crossing time and how long it takes to get these long, heavy vehicles across level crossings. We did a number of trials that indicated to us that the current standard—the sighting distance for those long vehicles at stop sign protected crossings—was inadequate and we have released a supplementary report with the recommendation.

The CHAIR—Has there been consideration to the creation of a national body that will be responsible for rail safety? Is anything like that being considered?

Mr FOLEY—Are you talking about rail safety regulator?

The CHAIR—Yes.

Mr FOLEY—It has been on the agenda for a number of years, the industry, I know, would like to see a single national regulator, but there has been resistance in most jurisdictions. The compromise position is model legislation which NTC implemented a few years ago and is now enshrined in most state legislation. That was a compromise position. In terms of the investigation side of things there has also been some similar discussion out at the rail modal group where recently DOI commissioned KPMG to review the current jurisdictional arrangements. They put forward a number of options, one of which was a single national investigator under probably our banner, and the other was a similar situation to the system that exists in regulation; that is model legislation. Each jurisdiction enacts legislation in accordance with certain agreed principles.

Mr MULDER—In terms of other states where we have our own investigator—rail and marine safety here—how far advanced are the other states? Are they still calling you in to conduct their investigations?

Mr FOLEY—Terry, most of our work in the past, as you are probably aware, was done for Victoria when we operated under your legislation at various times prior to the advent of, in particular the TSI Act, and of course Ian McCallum's OCI. The Office of Transport Safety Investigation exists within New South Wales. They are an independent investigator, independent of the regulator. They have a capacity to investigate rail accidents as well. The other states, generally speaking, rail investigations are conducted by an appointee of the rail safety regulator or indeed us in the case of a significant accident. In South Australia we would be called into investigate an accident on their patch probably under the provisions of our act. Our act can work because we have those constitutional powers that come with investigating constitution corporations. In most instances, the accredited rail owner or operator will be a constitutional corporation. It gives us the ability to investigate those, even though they might not be on the defined interstate rail network.

Mr TRESIZE—Peter, in Victoria when you are making a recommendation and you seek actions, do you find that the relevant authorities accept responsibility or do you find that authorities are prepared to perhaps buck pass?

Mr FOLEY—No, we get a good response out of Victoria like every other jurisdiction. Most people are right thinking in terms of the rail safety regulator. Recently we made some recommendations to road transport authorities as well and we get a very good response generally from government agencies in every jurisdiction. There is a vested interested when we identify a safety issue for them to address it. My anecdotal experience is almost everyone takes us pretty seriously.

Mr TRESIZE—Accepts their responsibility.

Mr FOLEY—They do.

Mr WELLER—Peter, your report touched on closing crossings.

Mr FOLEY—Yes. Some crossings, by their very nature and their risk assessment, are probably

unsafe for the types of traffic that they are carrying. We have not yet identified one in an investigation but it is a strategy that needs to be considered too. Certainly in the case of Lismore where you had two level crossings within close proximity there was a very good case to close one of those and probably the one where the collision occurred. It comes down to rationalising road traffic. I know in that particular case the traffic on the other level crossing was about 10 times that on the one where the accident occurred. In that instance it may have been appropriate to close that crossing. We have had another one in South Australia recently which occurred on Moloney Road. There have been two in the space of four weeks there—one a double fatality—where they have now closed the crossing because it was an instance where there was a crossing that was a better crossing, easily usable by the road users in the close vicinity.

Mr LEANE—Which state was that in?

Mr FOLEY—South Australia.

Mr WELLER—What do you call 'close vicinity'? I have seen the one in—

Mr FOLEY—I would have to look at it, but it was not very far away. It was something that would not have disadvantaged the local residents to any great degree. We did not recommend it but it was deemed that the appropriate action was to close that crossing. That may be an argument to be made where you have a number of level crossings in close proximity.

Mr WELLER—Yes.

Mr KOCH—Lismore, for instance, Peter, it would be interesting to see any traffic counts; were the trucks using the upgraded one or were they going into the town and using the other one where there is 10 times the traffic? I would have thought most of the car traffic was going through Lismore but the truck traffic was going through the default crossing.

Mr FOLEY—Quite possibly, yes. That may well have been the case and there would have been a desire to avoid the traffic in the town.

Mr KOCH—Very much so.

Mr FOLEY—On a case-by-case basis, level crossings need to be looked at in context. You have to look at the factors surrounding the crossing and adopt a range of strategies. As Alan rightly pointed out, there is no silver bullet. Each crossing deserves to be considered on its merits, or not merits, as the case may be. Each solution may well be unique. It all comes down to that assessment of risk and what is acceptable and what is not.

The CHAIR—From a national perspective obviously you would have a fairly good idea about the various states and territories implementing their own policies and safety strategies and technologies that they use. If you find that one of the states or territories has a successful program, is there a mechanism whereby you inform other states?

Mr FOLEY—We would probably write it up in our report. That is our mechanism for informing the world, but having said that, generally speaking if an accident has occurred, we come in and assess the crossing and assess whether or not the controls were adequate or not adequate, or there was compliance with the existing standard or not, as the case may be. It is after an accident when you see interventions coming in, which is what we record as safety action. We do not necessarily assess the adequacy of whatever intervention that they have put in place, but we would certainly record it in a report. It is not our job to necessarily go back and look at the adequacy or not of a particular technology, we look at compliance with an existing standard and occasionally we would question the standard too and decide whether it is as good as it could be.

Mr TRESIZE—Peter, this might be a pretty broad question but I know Victoria has a very good road safety record but when it comes to level crossings we have more accidents than most other states.

Mr FOLEY—Anecdotally that has been the case for the last couple of years, yes.

Mr TRESIZE—Have you any thoughts as to why that would be the case?

Mr FOLEY—We can all sit around and gaze at our navels and try and put our finger on what is a common factor but there is no evidence to suggest that it is any one thing. What you have in your most significant accidents is noncompliant driver behaviour on the part of someone driving a heavy vehicle each time. It is not a large operator, it is not the Tolls of this world that are having the accidents, it is generally the regional drivers that are having the accidents.

Mr TRESIZE—That is interesting. What you are saying is the larger companies, such as Toll—

Mr FOLEY—Anecdotally that appears to be the case but it is a very small sample. You cannot draw any conclusions from such a small sample. That is anecdotally what we have seen. They are regional drivers, they are people who generally know the crossings very well and for whatever reason they are not compliant with road signage, for example. Generally at passive level crossings—although Kerang was an exception—

Mr MULDER—We have had a range of about 400 or 500 additional rail services introduced over the last two years and people in the country region, in particular, being somewhat creatures of habit, the train arrives at 9.00 in the morning, the milk tanker goes through at 10.30, the school bus at 4.00 in the afternoon.

Mr FOLEY—Correct.

Mr MULDER—Do you see that as probably adding to the risk, the fact that they do tend to operate basically by clocks—

Mr FOLEY—Expectation is one of those things that we have identified on a number of occasions and that is people's expectation that they are going to see a train at the crossing and have to stop for it. That comes into a number of accidents in a number of different ways. You can expect that a train is going to be on the crossing at a particular time of the day and if you are not at the crossing at that time of the day you do not expect to see a train. That is where it is most prevalent, if you will, or indeed expectation can play a part when there are very few rail movements over a level crossing for someone who lives in a local area. They might see one train a week and will not expect that there will be a train present at that crossing when they use it. As a result they become complacent and develop poor looking habits where they are not actively searching the rail lines as well as they could. That is where those sorts of facets come in, and while certainly an increased number of rail movements logically in your mind would increase the risk, it depends on the way in which those rail movements are conducted. If they come through every five minutes, people using the road regularly expect a train every five minutes.

Mr KOCH—Alan, from a national perspective, what is taking place in other states? Is it to the same degree that we are researching at the minute? We have the level crossing issues that are being heavily investigated and technology being employed to assist in those other states to try and free up this fatality problem, or is it peculiar to Victoria, the drive of the investigation to try and retire our problem?

Mr FOLEY—Investigations largely drive what is happening within jurisdictions. Because you have had a number of very significant rail accidents recently you are probably better focused than most other jurisdictions, although I will say at a national level, organisations like the Australasian Railways Association are very focused on this issue and are pushing federal governments hard. The ARA have in place a pretty sensible strategy to address it. There are level crossing safety committees that exist within every state jurisdiction. Everyone is mindful of this problem. It is the number one risk in rail at the moment. The rail industry is pushing very hard to see and implement some solutions.

Mr KOCH—Are they endeavouring on the investigation strategy side or are they endeavouring to gain more resources to allow the opportunity to take place?

Mr FOLEY—Both. First and foremost is to get a better handle on what is happening out there and that is gathering the data, and then it is also doing some research. They have research ongoing into driver behaviour in particular. There was a survey commissioned by ARA which was several thousand drivers which

was conducted by a researcher at Queensland University talking about their behaviour at level crossings. They are trying to get a handle on that. There is also other work ongoing at the ARA looking at other aspects of level crossing behaviour and motorist behaviour. They are looking at launching a media awareness campaign as well. They are lobbying governments actively to improve enforcement at level crossings. It is all happening and it is being driven largely by the rail agendas and the industry which sees it as being a huge risk, which it is.

Mr KOCH—Are other states seeing, as we are, that there seems to be a driver behavioural situation in the last decade that is adding to the incidents, and also we are having more, as you suggested before, not national operators but regional operators with heavier vehicles these incidents arising at these particular crossings? Is that something that is happening nationally or is that peculiar to Victoria?

Mr FOLEY—No, it is something that is happening nationally. There has been a spate that we have investigated in the last 18 months which is national; a number, three are in Victoria, for example, or four if you include what we have on the plate at the moment. Of these released recently—eight reports—three were Victoria, but there are three in South Australia; there is one in NT; there are a couple in WA; there are some in New South Wales as well which we are investigating. It is not just Victoria it is occurring—everywhere. In terms of national focus, everyone is focused on it, and the response to recommendations we made in Ban Ban Springs to go away and look at sighting distance standards for very long vehicles was a case in point. It immediately sparked responses. Every jurisdiction is focused on the issue. It is not just Victoria and it is not happening only in Victoria, it is a very strange phenomenon that we have seen in the last 18 months to two years.

Mr KOCH—It does not give us any comfort that it is wider than Victoria, I can assure you of that.

Mr FOLEY—No, but rest assured you are not the only ones working on the issue. There is a lot of work ongoing at the moment.

The CHAIR—Anything further? Thank you very much for your time.

Mr FOLEY—Thank you very much.

Witness withdrew.

Committee adjourned.