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United States General Accounting Office

**GAO**

Fact Sheet for the Chairwoman,  
Subcommittee on Government Activities  
and Transportation, Committee on  
Government Operations, House of  
Representatives

November 1987

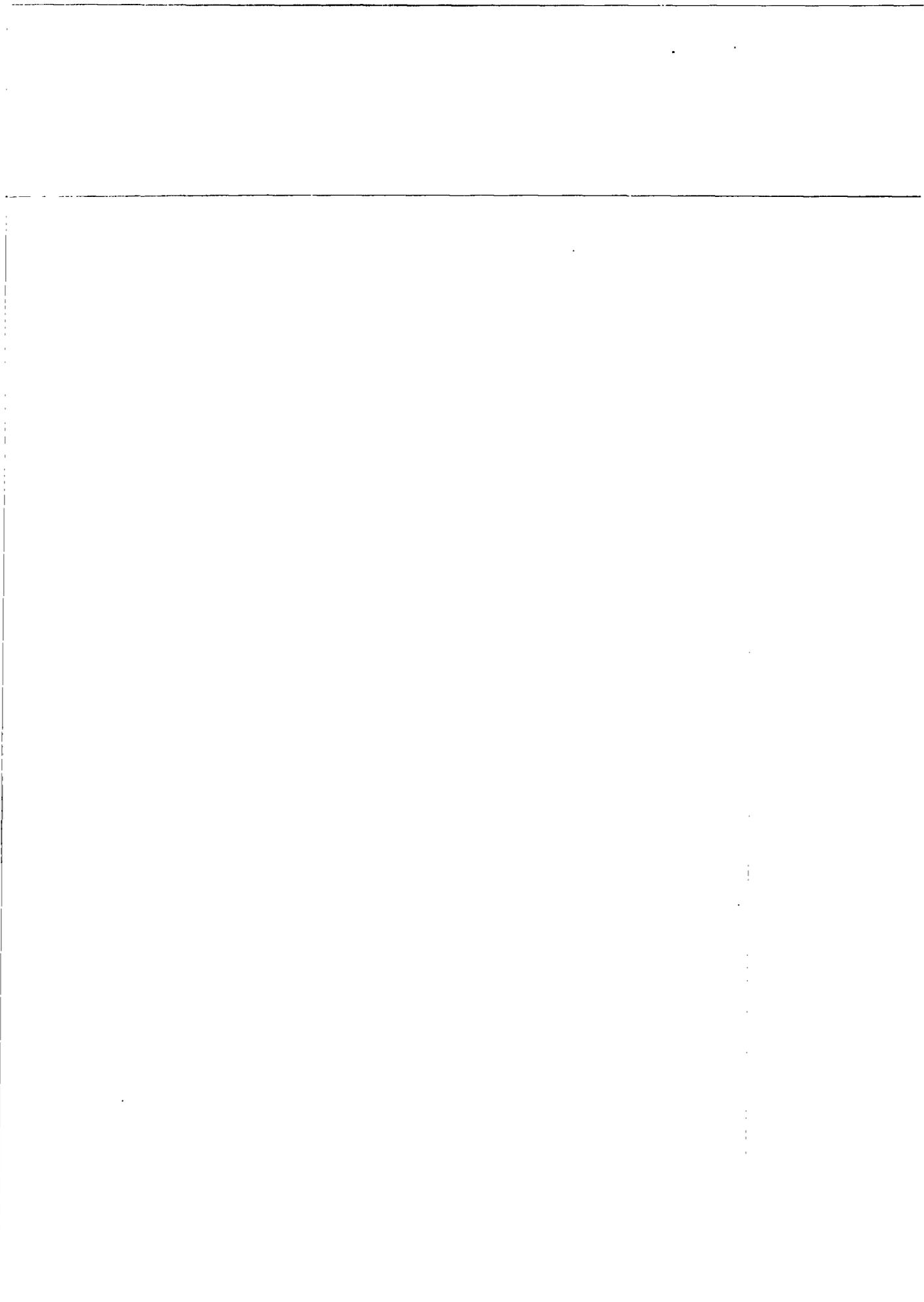
# TRUCK SAFETY

## Disposition of Allegations Concerning Three Safety Audits



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United States  
General Accounting Office  
Washington, D.C. 20548

Resources, Community, and  
Economic Development Division

B-229018

November 16, 1987

The Honorable Cardiss Collins  
Chairwoman, Subcommittee on Government  
Activities and Transportation  
Committee on Government Operations  
House of Representatives

Dear Madam Chairwoman:

This fact sheet responds to your November 17, 1986, request that we answer a series of questions relating to the disposition of various allegations made by Mr. Samuel Ricks to the Bureau of Motor Carrier Safety (BMCS)<sup>1</sup> and the Department of Transportation's (DOT) Office of Inspector General (OIG). Mr. Ricks is a former employee of Paul's Trucking Corporation in Avenel, New Jersey. His allegations centered around three safety audits performed by BMCS at this trucking company in January 1982, July 1982, and January 1984. Although violations were identified in each audit, BMCS generally considered the violations to be isolated cases and took no enforcement action.

The first audit was based on a December 1981 complaint letter from Mr. Ricks to BMCS alleging motor carrier safety violations by Paul's Trucking. The two subsequent safety audits were the result of continued complaints by Mr. Ricks to BMCS about the lack of enforcement action on the earlier audits and their poor quality.

BMCS conducted a fourth audit of Paul's Trucking in April 1985 which found numerous violations and resulted in the company paying a \$6,000 fine.

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<sup>1</sup>In October 1986 the BMCS name was dropped and BMCS and other units were reorganized into four separate offices under the Federal Highway Administration's Associate Administrator for Motor Carriers.

Specifically, your questions relate to three broad issues:

- The quality of the first three safety audits of Paul's Trucking, which were conducted by BMCS' Trenton, New Jersey, office.
- The reason for the transfer from the BMCS Trenton, New Jersey, office to the New York City office of the principal safety investigator assigned to the first three Paul's Trucking audits.
- The extent (depth and scope) of an OIG investigation of allegations made by Mr. Ricks that questioned the quality of the first three BMCS audits of Paul's Trucking.

The following summarizes our observations in each of these areas:

- BMCS officials told us that it is difficult to evaluate the quality of its completed safety audits when no enforcement action is taken because (1) only limited information is available in the audit reports to determine how the audit was performed and (2) source documents for the time period covered by the completed audits are generally not available later because trucking companies are only required to retain such documents for a limited time.
- Limited evidence and conflicting statements make it difficult to conclusively identify why the principal safety investigator was transferred. The BMCS Director said that the decision was motivated by workload needs in the Bureau's New York City office. His statement was supported by documentation contained in the safety investigator's personnel file and in a BMCS memorandum, dated December 10, 1985, to the safety investigator which stated that the needs of the service was the only factor involved in the transfer decision.

However, statements made to us by the BMCS officer-in-charge of the Trenton office during the four audits of Paul's Trucking, as well as statements reportedly made to the OIG by the BMCS Chief of the Operations Division, suggest that Mr. Ricks' allegations concerning the quality of the audits may have been a contributing factor. These officials, however, acknowledge that these were their personal opinions and that they were not directly involved in the transfer decision. Subsequently, a vacancy occurred in the Trenton office. The principal safety investigator applied for the

position, was selected, and was transferred back to Trenton in December 1985.

- OIG did not formally investigate Mr. Ricks' allegations concerning the quality of the audits and prepared no investigative report. Rather, OIG referred the case to the Federal Bureau of Investigation (FBI) based on the OIG's interpretation that Mr. Ricks was alleging bribery of a public official. Under an OIG/FBI memorandum of understanding, OIG agreed to transmit such cases to the FBI. On the basis of information supplied by the FBI, the Justice Department declined to prosecute the case.

The scope of our work included (1) discussions with BMCS officials located at BMCS headquarters in Washington, D.C., the Regional Office in Albany, New York, and the Division Office in Trenton, New Jersey, and (2) reviews of the BMCS files on Mr. Ricks' correspondence and Paul's Trucking at each office. Similarly, our work concerning the OIG included discussions with OIG headquarters officials and file reviews in Washington, D.C.

On October 20, 1987, DOT provided written comments on our draft fact sheet, indicating that it agreed with the chronology of events as presented in the fact sheet. DOT stated, however, that the chronology primarily represents a local matter which should not be reflective of the motor carrier safety program at the time of the allegations nor of the current program. The full text of DOT's comments are provided in appendix I.

Section 1 summarizes the events relating to Mr. Ricks' allegations about the audits of Paul's Trucking. The detailed response to each of your questions is provided in section 2. Additionally, section 3 provides an explanation from BMCS and OIG officials to your concern about the incompatible responses by the two agencies to Mr. Ricks and Congressman William Hughes of New Jersey, who wrote on behalf of Mr. Ricks. The incompatible responses are related to (1) the transfer of the principal safety investigator assigned to the first three audits and (2) the depth and scope of the OIG investigation. A complete description of our objectives, scope, and methodology appears in section 4.

Copies of this fact sheet are being sent to the Secretary of Transportation and other interested parties.

If you have any questions concerning this fact sheet, please contact me at (202) 275-7783.

B-229018

Major contributors to this fact sheet are listed in appendix II.

Sincerely yours,

A handwritten signature in cursive script that reads "Herbert R. McLure". The signature is written in dark ink and is positioned above the printed name.

Herbert R. McLure  
Associate Director

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ABBREVIATIONS

BMCS	Bureau of Motor Carrier Safety
DOT	Department of Transportation
FBI	Federal Bureau of Investigation
FHWA	Federal Highway Administration
GAO	General Accounting Office
OIG	Office of Inspector General, Department of Transportation

## SECTION 1

### SUMMARY OF EVENTS CONCERNING THE AUDITS OF PAUL'S TRUCKING CORPORATION

This section provides a brief history of Mr. Samuel Ricks' complaints and allegations sent to two agencies of the Department of Transportation (DOT), the Federal Highway Administration's (FHWA) Bureau of Motor Carrier Safety (BMCS)<sup>1</sup> and the Office of Inspector General (OIG), as well as those agencies' reaction to his complaints and allegations.

Mr. Ricks sent his first complaint letter to BMCS officials in FHWA's Regional Office in Albany, New York, in December 1981 alleging violations of motor carrier safety regulations by his former employer--Paul's Trucking Corporation of Avenel, New Jersey. The allegations included such violations as (1) drivers operating beyond hours-of-service limitations and making fraudulent entries in their logs, (2) hazardous material shipped without proper markings, (3) drivers operating without required current physicals or with expired licenses, and (4) vehicles operating with a past-due inspection. Hours-of-service regulations include various standards or limitations for on duty time, e.g., drivers are not permitted to be on duty more than 60 hours in 7 consecutive days, as well as, requirements to document on duty and rest times in records of duty status (drivers' logs).

After receiving the complaint letter from the region, the officer-in-charge of the motor carrier safety functions in the Trenton, New Jersey, office sent a safety investigator to Paul's Trucking in January 1982 to investigate the allegations in Mr. Ricks' complaint. On January 21, 1982, the safety investigator filed his first audit report on Paul's Trucking. Safety violations were identified and reported. However, no enforcement action was taken because the violations were considered by the investigator and his supervisors to be isolated cases.

In June of 1982, Mr. Ricks sent a second letter to the Regional Office in Albany, New York, charging that the audit did not adequately address his complaints. Mr. Ricks alleged additional safety violations by Paul's Trucking of not reporting certain accidents to BMCS as required. The officer-in-charge assigned the same investigator to deal with the allegations. The

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<sup>1</sup>In October 1986 the name of the Bureau of Motor Carrier Safety was dropped. The staff of BMCS and certain other organizations were reorganized into four separate offices under the FHWA Associate Administrator for Motor Carriers.

second audit was performed in July 1982 resulting in a written report discussing some of Mr. Ricks' allegations. Again, safety violations were reported. However, as with the first audit, no enforcement action was taken. The report does not provide an explanation of why no enforcement action was taken.

In September 1983, Mr. Ricks wrote to Congressman William Hughes of New Jersey expressing his concern about the lack of BMCS enforcement action as a result of the audits of Paul's Trucking. The Congressman, in September 1983, asked BMCS for a reply to Mr. Ricks' letter. According to BMCS, in order to be responsive to the Congressman, as well as Mr. Ricks, a third audit of the trucking company was initiated in January 1984. The same safety investigator as well as his supervisor, the officer-in-charge of the motor carrier safety function, were assigned to the case.

The report resulting from the third audit again showed that truck safety violations were found but were considered by the investigators to be isolated cases and, as a result, no enforcement action was taken against the trucking company.

Mr. Ricks continued to express his dissatisfaction with the quality of the safety audits. In September 1984, he testified before the Subcommittee on Government Activities and Transportation, House Committee on Government Operations, that significant safety violations were not reported by BMCS, thus impeding effective enforcement action. In October 1984, the full Committee issued a report making a number of recommendations to BMCS to improve its handling of truck safety complaints.<sup>2</sup>

Mr. Ricks also wrote a letter to the OIG in September 1984 requesting an investigation of BMCS' activities in handling his complaints. Based on its interpretation that Mr. Ricks was alleging bribery of a public official, and in accordance with an existing memorandum of understanding, the OIG referred the case to the Federal Bureau of Investigation (FBI). After interviewing Mr. Ricks, the FBI discussed the allegations, in May 1985, with the Newark, New Jersey, Assistant U.S. Attorney, who concluded that the issue raised by the OIG was a civil matter and that the Justice Department would decline to prosecute the case. (See pp. 18 and 19.)

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<sup>2</sup>In response to the Committee's recommendations, BMCS, in May 1985, revised its procedures for handling truck safety complaints and complaints that challenged the quality of a safety audit. One change BMCS made was to prohibit the same safety investigator who performed a challenged audit from reinvestigating the trucking company.

To end the continued controversy concerning the three earlier audits, BMCS in April 1985 performed a fourth audit of Paul's Trucking which resulted in an enforcement action against the company and a subsequent fine of \$6,000. Neither the officer-in-charge nor the principal safety investigator assigned to perform the first three audits was involved with this audit. (See pp. 12 and 13.)

In July 1985, the principal safety investigator involved with the first three audits of Paul's Trucking was transferred from FHWA's Trenton, New Jersey, office to its New York City office. He was notified by memorandum that his skills and experience were needed in the New York City office. However, the safety investigator stated in a formal grievance to the transfer that it appeared to be based on Mr. Ricks' complaints. (See pp. 14 and 15.)

Subsequently, a vacancy occurred in the Trenton, New Jersey, office and the principal safety investigator involved with the first three audits of Paul's Trucking applied for the position. He was the only applicant to apply for the position. He was selected and transferred back to the Trenton office in December 1985. (See pp. 16 and 17.)

## SECTION 2

### GAO'S RESPONSES TO THE SUBCOMMITTEE'S QUESTIONS

This section provides the Subcommittee's questions and GAO's responses concerning the activities of BMCS and OIG in Mr. Ricks' case. It is organized along the lines of the following three broad issues:

- The quality of the first three safety audits conducted by BMCS on Paul's Trucking.
- The reason for the transfer of the principal safety investigator assigned to the first three audits from the Trenton, New Jersey, office to the New York City office.
- The extent (depth and scope) of the OIG investigation of Mr. Ricks' allegations questioning the quality of the first three BMCS audits of Paul's Trucking.

#### THE QUALITY OF BMCS' SAFETY AUDITS OF PAUL'S TRUCKING CORPORATION

- DID BMCS RE-EVALUATE THE QUALITY OF THE THREE AUDITS OF PAUL'S TRUCKING PERFORMED IN JANUARY AND JULY 1982 AND JANUARY 1984?
- IF BMCS DID RE-EVALUATE THE AUDITS, WHAT WERE THE RESULTS AND WHAT ACTION, IF ANY, WAS TAKEN?
- IF BMCS DID NOT RE-EVALUATE THE AUDITS, WHAT WAS THIS DECISION BASED ON?

#### GAO Response

We were told by BMCS officials that they find it difficult to re-evaluate a completed audit because (1) only limited information is available in the audit reports to determine how the audit was performed and (2) source documents for the time period covered by a completed audit are generally not available later because trucking companies are only required to retain them for a limited time. As a result, BMCS' policy is to conduct a new audit rather than to redo or evaluate a past audit.

BMCS guidance for safety audits required that an audit report contain the number of violations found for each type of violation covered by the audit. The guidance also called for the number of company records reviewed, such as drivers' logs, to be identified with the number of violations found and at least one example of each type of violation to be described.

In a complaint investigation such as that of Mr. Ricks, BMCS guidance requires the investigator to provide a separate written report generally providing information on the alleged violations and on the scope of the audit. BMCS guidance did not require investigators to make copies of trucking companies' records that prove the specific violations found except in those cases where enforcement action is planned. In cases where enforcement actions are planned, the guidance required copies of company records be made only for those violations that were to be used in the enforcement action. Because no enforcement actions were planned or taken as a result of the first three audits of Paul's Trucking, the violations the investigator found were not documented.

We were also informed by BMCS' Federal Program Coordinator for region I that the way to evaluate a prior audit would be to go back and redo the audit for the same time period. However, that is not generally possible because the trucking companies do not retain the source documents. For example, trucking companies must comply with various hours-of-service requirements that limit a driver's on duty hours, such as, not permitting a driver to be on duty more than 60 hours in 7 consecutive days. These hours-of-service limitations or standards are monitored through a BMCS requirement that drivers maintain records of duty status or drivers' logs. Trucking companies are only required to maintain drivers' logs for 6 months. If an investigator was assigned to redo an audit 6 months after the original audit, drivers' logs for the same time period as the earlier audit would probably not be available.

The officer-in-charge of the Trenton office during the four audits of Paul's Trucking told us that the quality of an investigator's work is difficult to judge by reviewing one report. He also said that an investigator's supervisor can evaluate the quality of an investigator's work by reviewing a number of his audit reports of several companies. Potential weaknesses in the investigator's audit techniques can be found by identifying violation areas that have not been developed in any of his audits. The officer-in-charge also said that, in reviewing an audit report, he was able to discuss with the investigator the audit techniques used during the audit and to review any informal notes kept by the investigator. In a July 1984 reply to questions asked by the Subcommittee on Government Activities and Transportation, BMCS reported that the officer-in-charge had reviewed the January and July 1982 audit reports on Paul's Trucking and had found no deficiencies in the performance of either audit.

The Director of BMCS informed us that BMCS' policy was to perform a new audit of a trucking firm and not to attempt to redo/evaluate past audits. This policy was followed by BMCS in each subsequent audit of Paul's Trucking. For example, in September 1983, Mr. Ricks wrote to Congressman Hughes to complain about the lack of enforcement action taken by BMCS in the January and July 1982 audits of Paul's Trucking. The January 1984 audit

was initiated by BMCS because of a letter from Congressman Hughes asking for a response to Mr. Ricks' complaints. This was a new audit of Paul's Trucking and did not redo the earlier audits. The fourth audit, conducted in April 1985, was also initiated in response to continuing controversy over the quality of the first three audits. The fourth audit was also a new audit generally covering the company's operations from January 1 to March 31, 1985.

The region I safety investigator who participated in the April 1985 audit of Paul's Trucking identified what he considered a weakness in the earlier audits. It appeared to him that toll receipts were available to the investigators in the earlier audits but were not used. He told us that during the April 1985 audit of Paul's Trucking he used these receipts to identify false entries in the logs (records of duty status) maintained by drivers of Paul's Trucking and that this analysis led to the identification of numerous violations.

BMCS' hours-of-service limitations or standards require drivers to maintain detailed logs of the time they drive and rest to insure that they do not violate the standards. The region I safety investigator explained that toll receipts can be used to verify the accuracy of the entries in a driver's logs because an independent source documents the time and the date a driver passes through a point. The toll receipts must be identified with the driver. This is possible when the receipts are attached to the driver's petty cash vouchers for reimbursement of the tolls. Generally, if the trucking company does not attach toll receipts to the petty cash vouchers, they cannot be used to verify log entries.

After reviewing the trucking company's petty cash procedures and identifying that toll receipts were attached to petty cash vouchers for the period he was auditing, the safety investigator determined that such toll receipts and vouchers were also generally available prior to January 1984. However, he did not insure that such receipts and vouchers were available for the specific periods covered by the January 1984, July 1982, and the January 1982 audits. The safety investigator wrote a memorandum in May 1985 to the Regional Director for Motor Carrier Safety indicating that usable toll receipts had been available during the prior audits. We found no official BMCS response to this memorandum.

The principal safety investigator assigned to the first three audits told us that toll receipts were not usable in the January and July 1982 audits because they were not attached to petty cash vouchers and were not marked with drivers' names or truck numbers. He said he even examined the toll receipts for staple holes to insure that they had not been separated from the petty cash vouchers.

BMCS' Trenton office officer-in-charge during the four audits told us he could not remember specifically reviewing the toll

receipts during the January 1984 audit of Paul's Trucking, but that it was his normal procedure to verify the usability of such receipts as part of any trucking company audit. Both the officer-in-charge and the principal safety investigator told us that they remembered discussing the toll receipt issue with the investigator who did the April 1985 audit but were not aware that he had written a memorandum to the Regional Director.

**-- WHAT WAS THE IMPETUS FOR THE AUDIT OF PAUL'S TRUCKING CONDUCTED IN 1985?**

GAO Response

The BMCS Director informed us that he directed that Paul's Trucking be audited a fourth time to end the controversy and put to rest the continuing congressional and other complaints concerning the quality of the three earlier audits. The investigators who performed the fourth audit in April 1985 told us that they received no written explanation of the reason for the audit, and that their purpose was to perform a new safety audit, not to evaluate the quality of the three prior audits of Paul's Trucking.

**-- WHO CONDUCTED THIS AUDIT?**

GAO Response

Two BMCS investigators audited Paul's Trucking in April 1985. One was from BMCS headquarters in Washington, D.C., and the other from the region I motor carrier safety staff in Albany, New York. The safety investigator from headquarters worked at that time for the Chief of BMCS' Operations Division. The investigator from region I--the Federal Programs Coordinator--worked for the Regional Director of Motor Carrier Safety. The BMCS headquarters investigator reviewed the trucking company's local truck operations and the region I investigator reviewed the long-haul or over-the-road operations.

We were told by one of the two investigators that they and the Regional Director for Motor Carrier Safety met with Mr. Ricks prior to the audit. According to the two investigators, the Regional Director did not give them any specific guidance or instructions concerning the conduct or scope of the audit.

**-- WHAT WAS THE TIME PERIOD COVERED BY THE AUDIT?**

GAO Response

The investigators audited Paul's Trucking for the 90-day period from January 1 to March 31, 1985. Their review of the company's compliance with accident-reporting requirements covered a period of 1 year ending March 31, 1985. The investigators told us

that these time periods were consistent with BMCS guidelines in effect at that time.

Because the investigators decided that enforcement action should be taken, they wrote an investigation report. They concluded that enforcement action was warranted based both on the extensive pattern of violations identified in the fourth audit and the lack of corrective action by the company concerning the violations identified in the three earlier audits. For example, the investigation report stated that one quarter of the drivers' logs (records of duty status) reviewed were falsified.

The investigation report also identified two types of hours-of-service violations. The report cited 121 cases in which local operation drivers were permitted to drive after having been on duty more than 60 hours in 7 consecutive days and 54 cases in which long-haul drivers were permitted to make false entries in their logs. The report is supported by copies of company documents that substantiate log falsifications in 33 of the 54 cases, primarily drivers' logs, petty cash vouchers, and toll receipts. The documented cases of log falsification were later used in the enforcement case against the company.

**-- DID THE INVESTIGATORS REVIEW THE PREVIOUS THREE AUDITS OF PAUL'S TRUCKING, GIVEN THE ALLEGATIONS MADE BY MR. RICKS?**

**-- IF NOT, WHAT WAS THE BASIS FOR THE DECISION NOT TO REVIEW THE PREVIOUS AUDITS?**

GAO Response

Both investigators indicated that they were familiar with the three earlier audit reports on Paul's Trucking. The region I safety investigator had been responsible for reviewing the earlier reports at the time they were completed and submitted to the region. The headquarters safety investigator said that he had assisted in responding to earlier correspondence about the case. The investigator also said that he reviewed BMCS' file on Paul's Trucking and the earlier audit reports prior to beginning the fourth audit primarily to allow for (1) the comparison of the audit results for 1985 with the prior audits and (2) the identification of changes and improvements that the trucking company may have made since the last audit.

THE TRANSFER OF THE PRINCIPAL  
SAFETY INVESTIGATOR

**-- WITH RESPECT TO THE BMCS PRINCIPAL INVESTIGATOR IN THE FIRST THREE AUDITS OF PAUL'S TRUCKING, WHAT WAS THE BASIS FOR TRANSFERRING HIM TO THE NEW YORK CITY OFFICE (I.E., WAS THE DECISION IN ANY WAY BASED ON HIS ACTIONS CONCERNING HIS AUDITS OF PAUL'S TRUCKING OR MR. RICKS' ALLEGATIONS)?**

GAO Response

Limited evidence and conflicting statements make it difficult to conclusively identify why the principal safety investigator assigned to the first three audits of Paul's Trucking was transferred.

In a June 25, 1985, memorandum, the Regional Director of Motor Carrier Safety notified the principal safety investigator that his experience and skills were needed in the New York City office and that his transfer would be effective on July 15, 1985. The memorandum further explained that the move was

". . . an effort to better utilize Safety Investigators in a more effective manner and to provide adequate coverage to high-density carrier and shipper geographical locations . . ."

The FHWA personnel officer in region I, who initiated the official paperwork for the transfer, said that the Trenton office had two other permanent safety investigators and one temporary investigator at the time of the transfer. The transferred safety investigator was not replaced in the Trenton office. The personnel officer confirmed his understanding that the purpose of the transfer was to meet the workload needs in the New York City office.

The BMCS Director said that the Regional Director in region I had informed him of an imbalance in the workload between the Trenton and New York City offices and had suggested that this safety investigator be transferred. The BMCS Director said that he had concurred in the transfer. He denied that the complaints of Mr. Ricks or the investigator's audits of Paul's Trucking had anything to do with the transfer.

The transferred safety investigator believed that the transfer appeared to be related to Mr. Ricks' complaints. In a memorandum dated July 12, 1985, the investigator initiated a grievance requesting that he be transferred back to the Trenton Office. He also stated that Mr. Ricks' allegations and insinuations to newspapers and magazines and before the Subcommittee had damaged his reputation. The memorandum further stated that

". . . this transfer makes the appearance that Mr. Rick's insinuations are true and this agency is taking corrective action by transferring me out of New Jersey."

In a December 10, 1985, memorandum to the safety investigator the BMCS Director indicated that Mr. Ricks' complaints were not involved in his transfer. The safety investigator's grievance was never officially answered by BMCS because he had been selected for a position in the Trenton, New Jersey, office prior to final action on the grievance. In the memorandum, the Director also stated that

". . . the needs of the service was the only factor involved in your initial reassignment . . . no allegations concerning your conduct on the part of anyone played any part in your reassignment."

The transferred safety investigator told us that he felt that Mr. Ricks' complaints had something to do with his transfer to New York City, based on telephone contacts he had with the Regional Director after his transfer. He said that he had had a few opportunities to talk with the Regional Director and on one occasion, the investigator asked for permission to perform some work in New Jersey and the Regional Director said "no." The investigator told us that when he asked the Regional Director why, he received no answer.

The officer-in-charge of the Trenton office during all four audits said that he suspected that the transfer might have had something to do with Mr. Ricks' case. However, he was not involved in the decision to transfer the safety investigator and was only told about the transfer by the Regional Director in a telephone call. The Regional Director told the officer-in-charge that the transfer was in response to BMCS needs.

According to the OIG official who handled Mr. Ricks' case, the Chief of BMCS' Operations Division had told him that the investigator had been reassigned (1) because of the poor quality of his audits of Paul's Trucking and (2) to remove him from further contact with the company. The OIG official could provide no written documentation as to what was said, and he had not reviewed the safety investigator's personnel folder.

When we interviewed the BMCS Chief of the Operations Division, he indicated that he was not directly involved in the decision to reassign the investigator. He remembered meeting with the OIG official concerning Mr. Ricks' complaints but did not remember saying that the investigator had been reassigned because of Mr. Ricks' complaints. He believed he may have related the transfer to Mr. Ricks' complaints as his "gut feeling" and as an "easy solution to a bad situation."

**-- WAS THE REASSIGNMENT TO THE NEW YORK CITY OFFICE A PERMANENT OR TEMPORARY ASSIGNMENT? WAS OFFICIAL PERSONNEL ACTION TAKEN?**

GAO Response

Official personnel action was taken by the Regional Director of Motor Carrier Safety in region I under authority granted by BMCS in Washington, D.C., to permanently transfer the safety investigator to the New York City office.

After a reorganization of BMCS in March 1985, Regional Directors of Motor Carrier Safety were given personnel authority for all regional motor carrier safety personnel. According to memorandums from the Director of BMCS, all personnel actions, including reassignments, would require a Standard Form 52--Request For Personnel Action--approved by the Director of BMCS.

A Standard Form 52 was initiated by the FHWA Region I personnel officer to permanently transfer the investigator to the New York City office, effective July 15, 1985. The personnel officer signed as the requesting official and the Regional Director signed as the approving official. The authority granted to the Regional Director appeared to require the signature of the BMCS Director on the Standard Form 52 as the approving official. However, the BMCS Director said he had given his verbal concurrence to the transfer.

The transfer was accomplished under FHWA procedures using a directed reassignment or a management-initiated reassignment. According to these procedures, reassignments are transfers made laterally without change in grade or pay.

**-- HOW DID THE VACANCY IN THE TRENTON OFFICE (WHICH THE TRANSFERRED SAFETY INVESTIGATOR EVENTUALLY WAS SELECTED TO FILL) OCCUR? SPECIFICALLY, WAS A NEW POSITION CREATED, DID AN INVESTIGATOR RETIRE OR RESIGN, OR WAS THE POSITION CREATED BY THE SAFETY INVESTIGATOR'S ORIGINAL REASSIGNMENT TO THE NEW YORK CITY OFFICE?**

GAO Response

According to the region I personnel officer, a vacancy occurred when an investigator resigned from the Trenton, New Jersey, office. The investigator's resignation was effective October 29, 1985, for career diversification, advancement, and personal reasons, as stated on his Standard Form 52.

A Standard Form 52 transferred the safety investigator assigned to the first three audits of Paul's Trucking from the New York City office to the Trenton office effective December 8, 1985. The remarks section of the Standard Form 52 indicates that the

reassignment was to fill the vacancy due to the resignation of the safety investigator.

To fill the vacant position, the Regional Director had the region I personnel officer issue a reassignment opportunity announcement with a closing date of November 19, 1985. The announcement's area of consideration was FHWA-wide. He provided us with a copy of the weekly list of FHWA job announcements dated November 5, 1985, which included the reassignment opportunity announcement.

**-- HOW MANY APPLICATIONS WERE RECEIVED FOR THE TRENTON POSITION? HOW MANY APPLICANTS WERE PLACED ON THE SELECTION CERTIFICATION FORM? WHO WAS THE SELECTING OFFICIAL?**

GAO Response

The transferred safety investigator was the only BMCS employee to apply for the Trenton, New Jersey, position under the reassignment opportunity announcement. He was the only applicant on the selection certification form. The Regional Director for Motor Carrier Safety was the selecting official.

The Standard Form 52 transferring the safety investigator back to the Trenton office was signed by the Regional Director as the requesting official and by the BMCS Director as the approving official.

THE INVESTIGATIVE WORK OF THE OIG  
ON MR. RICKS' ALLEGATIONS

**-- CONCERNING THE SEVEN QUESTIONS POSED BY MR. RICKS IN HIS  
SEPTEMBER 11, 1984, LETTER TO THE OIG, DID THE OIG CONDUCT  
AN INVESTIGATION OF THE ISSUES RAISED BY MR. RICKS?**

GAO Response

The OIG did not formally investigate any of the issues raised in Mr. Ricks' September 11, 1984, letter. According to the Deputy Assistant Inspector General for Investigations, the OIG did not have investigative staff available when the letter was received. At that time, the OIG staff was involved primarily in investigations of bid rigging in the federal highway programs.

An OIG official did discuss Mr. Ricks' case with BMCS headquarters officials in Washington, D.C., primarily the Chief of the Operations Division. The OIG official who made these contacts said that he did not discuss the case with FHWA or BMCS officials in region I or the Trenton office. He also reviewed information in the BMCS headquarters correspondence files.

The OIG official said he used the information gathered in conversations with BMCS officials and in BMCS files to reply to various congressional requests. However, according to this official, he made no attempt to verify or evaluate the information gathered and did not document the information he received in telephone conversations or meetings.

The OIG Deputy Assistant Inspector General for Investigations said that because no formal OIG investigation was made, what was done could be referred to as an investigative inquiry. He believed that the language in a February 11, 1986, BMCS' letter stating that the OIG had investigated Mr. Ricks' allegations is a problem of semantics. See section 4 for a further discussion concerning the inconsistency of information reported by BMCS and the OIG.

**-- IF AN INVESTIGATION WAS MADE, WHAT WERE THE RESULTS? DID  
THE OIG PREPARE A WRITTEN REPORT SUMMARIZING THE RESULTS OF  
THE CASE?**

GAO Response

As noted above, no formal investigation was undertaken by the OIG in response to Mr. Ricks' request letter. According to an OIG official, no investigative report was prepared.

**-- WHAT WAS THE OIG'S BASIS FOR REFERRING MR. RICKS' CASE TO THE FBI?**

GAO Response

According to the October 22, 1984, letter transferring Mr. Ricks' letter of September 11, 1984, to the FBI, the referral was made pursuant to a memorandum of understanding between the FBI and DOT's OIG. The memorandum states that the primary role of the FBI will be to investigate violations of federal criminal law of bribery or specific significant allegations of corruption which involve federal government employees, and that the OIG's role is to expeditiously refer such cases to the FBI whenever the OIG has reasonable grounds to believe a violation has occurred.

A former OIG Office of Field Operations Director believed reasonable grounds existed for sending the case to the FBI on the basis of his interpretation that Mr. Ricks was alleging bribery of a public official. Specifically, Mr. Ricks asked in his letter:

"What actions were taken by the carrier [Paul's Trucking] to influence the outcome of the Bureau's investigations?"

The OIG's letter to the FBI states that Mr. Ricks alleges that a corrupt relationship between the principal safety investigator assigned to the first three audits and Paul's Trucking resulted in an investigative effort that omitted or misrepresented violations by Paul's Trucking.

The OIG official who handled Mr. Ricks' case informed us that the OIG did not investigate the allegation of bribery. He indicated that it is not unusual to submit such complaints or allegations to the FBI.

**-- WHEN THE OIG WAS INFORMED THAT THE FBI DECLINED TO PROSECUTE, WHAT ACTION DID THE OIG TAKE?**

GAO Response

The OIG decided not to proceed with any investigations after the Justice Department declined to prosecute the case. According to information in a June 12, 1985, FBI memorandum closing the investigation, the Assistant U.S. Attorney in Newark, New Jersey, concluded that the allegation was a civil matter and he could see no basis for criminal prosecution. The memorandum states that the Assistant U.S. Attorney restated his position that DOT should handle this matter.

The OIG official who handled Mr. Ricks' case said that the OIG decided not to proceed with an investigation because various actions had been or were being taken which the OIG considered responsive to Mr. Ricks' concerns. One event he cited was the

completion of the 1985 audit of Paul's Trucking in which numerous violations were identified. As a result, enforcement action was underway subsequently resulting in a fine levied against the company. Additionally, the principal safety investigator assigned to the first three Paul's Trucking audits had been moved from the Trenton office to the New York City office and would no longer have contact with Paul's Trucking.

The same OIG official said that OIG considered performing a broader program review of BMCS' complaint-handling activities but decided not to because many organizational changes were occurring in BMCS. The General Accounting Office was also completing a review of BMCS' motor carrier safety program (Stronger Enforcement Would Help Improve Motor Carrier Safety, GAO/RCED-85-64, Sept. 5, 1985) and a number of recommendations for improvements were expected.

**-- DID THE OIG REVIEW THE THREE AUDITS OF PAUL'S TRUCKING PERFORMED BY THE PRINCIPAL SAFETY INVESTIGATOR OR THE ADEQUACY OF BMCS' DISPOSITION OF MR. RICKS' ALLEGATIONS?**

GAO Response

The OIG did not review BMCS' three earlier audits of Paul's Trucking. Also, the OIG did not evaluate the adequacy of BMCS' disposition of Mr. Ricks' allegations. As noted earlier, an OIG official discussed, by telephone or in meetings, Mr. Ricks' case with BMCS officials to respond to various congressional requests. No effort was made to verify or evaluate the information received.

### SECTION 3

#### INCOMPATIBLE STATEMENTS

##### BY BMCS AND OIG

The Subcommittee expressed concern because BMCS and OIG gave Mr. Ricks and Congressman Hughes, who wrote in behalf of Mr. Ricks, different explanations concerning (1) the transfer of the principal investigator assigned to the first three audits of Paul's Trucking and (2) whether the OIG investigated Mr. Ricks' allegations. This section discusses those responses and BMCS and OIG officials' explanation of why they responded as they did.

On October 22, 1985, Congressman Hughes wrote a letter to the Secretary of Transportation on behalf of Mr. Ricks. Enclosed with the letter was an October 2, 1985, letter from Mr. Ricks asking for a "credible" response from DOT concerning the FBI and OIG investigations based on his September 11, 1984, letter to the OIG. The DOT Inspector General responded for the Secretary on November 18, 1985. The Inspector General stated, among other things, that the principal safety investigator

" . . . has been reassigned to another area and will no longer have any official contact with the carrier in question. My staff was advised by a BMCS official that this action was partially taken in response to Mr. Ricks' complaints to the Department . . . ."

Based on a January 7, 1986, letter from Mr. Ricks, the FHWA Associate Administrator for Motor Carriers, who was in charge of BMCS, wrote a February 11, 1986, letter to Mr. Ricks stating that the safety investigator was transferred to the New York City Office as a result of "heavy workload activities." He also stated that the transferred investigator had been reassigned back to the Trenton office.

The Subcommittee suggested that the incompatibility of the Inspector General letter to Congressman Hughes with the Associate Administrator's letter to Mr. Ricks meant that DOT officials had to have misled one or the other or both.

We discussed with the OIG official who handled this case, how the information on the safety investigator's reassignment was developed by the DOT Inspector General as reported in his November 18, 1985, letter to Congressman Hughes. As previously discussed in section 2, the OIG official said that this information had been reported to him by the BMCS Chief of the Operations Division. He said that he had been told that the investigator had been reassigned (1) because of the poor quality of the Paul's Trucking audits and (2) to remove him from further contact with the company. He could provide no written documentation as to what was

said, and he had not reviewed the safety investigator's personnel folder.

The BMCS Chief of the Operations Division indicated that he was not directly involved in the decision to reassign the investigator. He remembered meeting with the OIG official concerning Mr. Ricks' complaints but did not remember saying that the investigator had been reassigned because of Mr. Ricks' complaints. He believed he may have related the transfer to Mr. Ricks' complaints as his "gut feeling" and as an "easy solution to a bad situation."

The February 11, 1986, letter from the Associate Administrator to Mr. Ricks also stated that Mr. Ricks' allegations "were investigated" by the OIG. The Subcommittee states that a copy of this letter was found to be in the OIG files on Mr. Ricks. The Subcommittee interviewed the OIG official who handled Mr. Ricks' case and was told that no "investigation" of Mr. Ricks' complaints had ever been performed by OIG. This official had told the Subcommittee that a "review" was done, which consisted simply of reading Mr. Ricks' correspondence and talking to Mr. Ricks by telephone.

Because of the Associate Administrator's description of the OIG's work as an investigation and OIG's apparent lack of disagreement with that description, the Subcommittee questioned whether DOT fully and faithfully carried out its duties and responsibilities.

The BMCS Chief of the Operations Division explained that the statement in the Associate Administrator's letter that the OIG had investigated Mr. Ricks' allegations was the result of BMCS' misunderstanding. At the time the Chief approved the issuance of the letter, he had understood that the OIG had done an investigation but later found that the OIG had sent Mr. Ricks' letter to the FBI.

The current OIG Deputy Assistant Inspector General for Investigations explained the apparent inconsistencies in the letters as a problem of semantics. He indicated that the activities of the OIG in Mr. Ricks' case could not be called an investigation but could be called an investigative inquiry.

## SECTION 4

### OBJECTIVES, SCOPE, AND METHODOLOGY

Our objective in the review was to respond to the several questions the Subcommittee on Government Activities and Transportation, House Committee on Government Operations, asked about the actions taken by BMCS and OIG in response to various allegations made by Mr. Samuel Ricks.

The questions relate to the actions taken by the two DOT organizations in three broad issues:

- The quality of the first three safety audits conducted by BMCS on Paul's Trucking.
- The reason for the transfer of the principal safety investigator assigned to the first three audits from the Trenton, New Jersey, office to the New York City office.
- The extent (depth and scope) of the OIG investigation of Mr. Ricks' allegations questioning the quality of the first three BMCS audits of Paul's Trucking.

In addition, we discussed with BMCS and the OIG officials why Mr. Ricks and Congressman William Hughes of New Jersey, who wrote in behalf of Mr. Ricks, were given different explanations about the transfer of the principal safety investigator assigned to the first three audits and whether the OIG investigated Mr. Ricks' allegations.

We reviewed BMCS files of correspondence/complaints by Mr. Ricks and BMCS files on Paul's Trucking. This included files in BMCS' headquarters office in Washington, D.C., the FHWA Regional Office in Albany, New York, and its Division Office in Trenton, New Jersey. In addition, the Subcommittee provided us with copies of various correspondence from Mr. Ricks and the two DOT organizations. We also reviewed the personnel files of the principal safety investigator who was assigned to the first three safety audits conducted on Paul's Trucking.

We met with various FHWA and BMCS officials directly involved in the audits of Paul's Trucking and the transfers of the principal safety investigator from the Trenton office to the New York City office. FHWA officials included the Regional and Deputy Regional Administrators in FHWA Region I and the Division Administrator in the FHWA Division Office in Trenton, New Jersey.

We also met with the principal safety investigator on the first three audits. He was still a safety investigator in the Trenton office in May 1987 but was later selected for a different

position in FHWA's Springfield, Illinois, Division Office. We also discussed various issues by telephone with the person who was officer-in-charge of BMCS' motor carrier safety program in its Trenton office during the time of the four audits of Paul's Trucking. He has since left BMCS for a position in private industry. We also met with various BMCS headquarters officials, including the BMCS Director and the Chief of the Operations Division (later called the Safety Fitness and Enforcement Division). Both officials were in those positions during the four audits and up to October 1986 when the BMCS name was dropped and the existing BMCS and other personnel were reorganized into a four-office organization under the FHWA Associate Administrator for Motor Carriers.

We also met with the current Regional Director for Motor Carrier Safety in region I and his staff. The prior Regional Director, who was in charge during the four audits, died in 1986.

We reviewed OIG files concerning Mr. Ricks' correspondence with that office and discussed OIG investigative activities with OIG officials, including the current Deputy Assistant Inspector General for Investigations. We also reviewed the FBI investigative files in both Washington, D.C., and in Newark, New Jersey, concerning the work performed on Mr. Ricks' allegations.

Our review was limited to responding to the Subcommittee's questions. Those questions only concern the actions taken by BMCS and OIG. We, therefore, did not evaluate the safety compliance of Paul's Trucking nor did we meet with officials of the company. We also did not meet with Mr. Ricks because the Subcommittee's questions were limited to actions taken by the two DOT organizations and Mr. Ricks' concerns were well documented in his correspondence to these organizations.



U.S. Department of  
Transportation

Office of the Secretary  
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OCT 20 1981

Mr. Herbert R. McLure  
Associate Director  
Resources, Community, and  
Economic Development Division  
General Accounting Office  
Washington, D.C. 20548

Dear Mr. McLure:

We have reviewed the General Accounting Office's (GAO) draft fact sheet report entitled "Truck Safety: Disposition of Allegations Concerning Three Safety Audits (GAO/RCED-88-17FS)." Although the report makes no conclusions or recommendations, we would like to comment on the contents of the report.

The report discusses the handling of a December 1981 allegation of motor carrier safety violations, resulting safety audits, and Inspector General processing of follow-on complaints concerning the quality of the safety audits. While we do not take exception to the chronology of events discussed in the report, we believe they primarily represent a local matter which should neither be considered reflective of the motor carrier safety program at the time of the allegation nor of the current program, which has undergone significant change since that time.

Largely as a result of recommendations of the Secretary's Safety Review Task Force and actions by the Federal Highway Administration, the motor carrier safety program has been significantly improved and strengthened. Actions have been taken which provide for direct control over field offices and safety specialists by the Associate Administrator for Motor Carriers, developing uniform audit criteria and guidelines for enforcement actions, hiring an additional 150 safety specialists, and developing a National Motor Carrier Safety Plan with quantitative criteria for determining program effectiveness. The Program has also been strengthened by the increase of almost 200 percent in funding for the Motor Carrier Safety Assistance Program to an annual level of \$50 million, and a clarification of the Federal and State roles in motor carrier safety. Federal efforts will focus on evaluating the safety fitness of motor carriers and targeting high risk and problem carriers for remedial and enforcement action and the States will concentrate on roadside inspections. These are a

- 2 -

few of the actions taken in addition to use of the substantial new enforcement authority to assess civil penalties granted under the Motor Carrier Safety Act of 1984. Therefore, past organizational, procedural, and program deficiencies were recognized and corrected by the Department.

We appreciate the opportunity to comment on the draft report.

Sincerely,

*Marissa J. Allen*  
Jon H. Seymour

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