

# Charges dropped against Amtrak engineer in Philadelphia derailment

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15 September 2017

A Philadelphia, Pennsylvania municipal court judge has dismissed criminal charges against an Amtrak engineer who was operating a train during a fatal accident on May 12, 2015. Eight people died and 200 were injured when the train derailed while Brian Bostian was operating it.

Judge Thomas Gehret, in his dismissal of the charges of involuntary manslaughter and reckless endangerment, stated that “based on this evidence, I feel it’s more likely an accident than criminal negligence.”

The charges against Bostian follow a typical pattern, where railroads, politicians, or prosecutors seek to offload the blame for disasters onto railroad workers, ignoring the role of railroad management and government policy.

On the night of May 12, Bostian was operating Amtrak 188 out of Philadelphia. He had accelerated the train to a speed of 106 miles per hour, before approaching a curve with a 50 miles per hour speed limit. Realizing the danger, he began braking, but the train derailed before he could slow the speed sufficiently.

A National Safety Transportation Board report found several contributing causes to the accident. Just prior to the accident, the engineer of a local commuter train (SEPTA) that was operating ahead of Amtrak train 188 reported that projectiles—stones or bullets, something that hasn’t been investigated— had shattered his window and sent glass into his face. This prompted conversations between the SEPTA engineer and dispatcher about the incident and potential injuries, which Bostian was hearing as he passed nearby. Bostian noted in a post-accident interview that “he was really concerned for the SEPTA engineer” and had a co-worker in Oakland, California, who had glass hit his

eye when his train hit a tractor-trailer.

Shortly after these radio communications, Bostian accelerated the train beyond the speed restriction for the approaching curve. The NTSB report notes that this occurred at night, when many markers along the track indicating location (like overhead bridges and other details) were not visible. Two miles further along the line, his changes to speed would have been appropriate choices.

The NTSB report ruled out that Bostian was incapacitated, affected by drugs or alcohol, distracted by a cell phone, or suffering from other distractions that railroads penalize. Coworkers noted that he was experienced and responsible. From this, the NTSB concluded that Bostian had lost situational awareness. While on freight railroads the engineer often has a conductor in the cab, who might notice any lapse in awareness, on passenger and commuter railroads the engineer is alone in the cab, as the conductor is serving passengers in the train.

Last October, Amtrak agreed to pay \$265 million to victims of the incident or their families. In May, Philadelphia prosecutors said Bostian would not face criminal charges, only to have Philadelphia Municipal Court Judge Marsha Neifield then order prosecutors to do so.

This resulted in Pennsylvania’s Attorney General Josh Shapiro, a Democrat, filing charges. Shapiro proceeded to make lurid and ignorant statements, such as, “Can you imagine someone driving down Market Street at 100 miles per hour, hitting people, killing people, and the DA saying we don’t have a basis for prosecuting anybody?” The implication was that Bostian had intended to act recklessly, something that the NTSB investigation never found.

Politically, the effort has been made to cover up the

other circumstances that led to the accident. Above all, Amtrak has a signaling system called Automatic Train Stop (ATS) that is able to detect a train that is over speed and force it to slow down. It is proven technology, dating from 1927, but was inexplicably absent from the sharp curve where the train derailed. If it was in place, as it is elsewhere along the route, Bostian's momentary lapse in awareness—something any pilot, driver, or engineer has experienced—would have not led to a disaster.

Beyond that, a system called "Positive Train Control" (PTC) has been in development or operation, which provides a more advanced overlay of safety backup for train operation. Federal regulations originally mandated installation by 2015, but with slow progress on the reliable operation of the technology, and railroad complaints about paying for it, the deadline has been extended to 2018. The federal mandate for its implementation was unfunded, posing an especially heavy burden on Amtrak and commuter railroads that persistently lack funding for essential needs, much less new technology.

Amtrak, which covers 46 states and carried 31 million passengers in 2016, has received minimal federal funding since it was started amid widespread bankruptcies of privately owned rail lines in 1971. The 2016 federal funding for the national network was \$1.4 billion, a laughable amount compared to military line items. A single Arleigh Burke class destroyer, at \$1.8 billion, easily exceeds the annual Amtrak funding, as does the 2016 funding (\$1.5 billion) on research and development of the new Long Range Strike bomber.

Amtrak employees work under the stress of the precarious year-to-year financial state of the company and federal funding. The Trump administration's proposed budget slashed Amtrak funding by 45 percent, which would end service to hundreds of towns and cities. Amtrak itself has typically bloated, well-paid management that demands concessions from operating employees. For example, most union workers at Amtrak went an astonishing 11 years, 1999 to 2010, without a contract.

When tragedy strikes, owing to a combination of factors that certainly includes the abysmal funding for passenger rail over decades, individual workers get vilified and blamed. Railroad workers across the continent are all too familiar with this process. The trial

of Thomas Harding, the engineer of a Montreal Maine & Atlantic oil train that was in an accident in 2013, begins jury selection this week. Once Harding left his shift, the train rolled downhill and derailed in Lac-Mégantic, Quebec, killing 47 residents.

Corporate policies of one-crew operation, shoddy operations planning, and poor locomotive maintenance were major factors in the derailment, but the railroad is gone, the millionaire CEO Ed Burkhardt has quietly disappeared, and the experienced engineer faces the witchhunt.



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