

Documentary on Alberta train derailment uncovers evidence of criminal negligence by CP Rail

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A recently aired documentary that reveals corporate criminal negligence may have been responsible for a fatal train accident last year has prompted calls for an independent criminal investigation into CP Rail, Canada's second largest railway.

The 22-minute documentary, "Runaway Train," was the product of a seven-month-long investigation undertaken by the CBC investigative program the *Fifth Estate*.

Train 301 was travelling west to Vancouver when it derailed near the Alberta/British Columbia border at around 1 a.m. on February 4, 2019, killing the three crew members on board: conductor Dylan Paradis, locomotive engineer Andrew Dockrell and conductor trainee Daniel Waldenberger-Bulmer. (See: "Canada: Train derailment kills three, exposes terrible working conditions")

Shortly after the accident, the federal government's Transportation Safety Board (TSB), released its preliminary findings. It determined that the 112 loaded grain cars had been parked in -28C weather on a steep grade with emergency air brakes applied, but no handbrakes. The train had been parked for almost three hours when the replacement crew arrived. Soon after their arrival, the air brakes failed and the train "began to move on its own," accelerating beyond the authorized maximum track-speed of 15 mph to a speed in excess of 51 mph, until it derailed into the mountainside.

The timeliness of CBC's exposure was underscored by a train derailment that occurred in Saskatchewan last Thursday. At around 6 a.m., a CP Rail freight train derailed near Guernsey, for the second time in as many months, forcing the evacuation of 80 people after oil tanker cars caught fire. Federal Transport Minister Mark Garneau subsequently announced a 40-kilometer-per-hour speed cap for all trains carrying dangerous goods for 30 days.

The CBC documentary includes footage describing a "string of critical failures" on the part of the railway company, including in maintenance, inspections, and

braking practices, and the "compelling case for criminal negligence."

Nikki Atherton, a friend of Dockrell, told journalists that on the night prior to the accident, Dockrell told her that he was reluctant to go to work that night because extreme cold compromises the locomotive air brakes. The *Fifth Estate* reported that Dockrell had filled out a safety hazard report that was found in the train wreckage outlining virtually identical problems with the air brakes just the day before.

Persistent brake issues are well-known to CP Rail and the railway industry. The CBC journalists found that there had been similar safety hazard reports from other railway workers about the impact of cold weather on the brakes, and that CP Rail's own manuals warn that a "major challenge" is that "cold weather increases air leakage in a train's brake system." Research papers published in 2018 obtained by the *Fifth Estate* indicate CP Rail knew that its inspections were "failing to catch many cars with zero or very low brake effectiveness."

Immediately following the accident, the company pulled thousands of the old government grain cars out of service to be repaired. The *Fifth Estate* journalists also pointed out that the particular route train 301 was travelling along is a well-documented hazard, with 25 runaway trains and derailments in the last 25 years alone.

Brake failure has led to repeated tragic train accidents across the country. In 2013, Canada's worst train disaster in more than a century took place at Lac-Mégantic, Quebec. The train, which was carrying a cargo of oil, suddenly started to move down the steep incline it had been parked on by a lone conductor. It careened into the center of town and exploded, killing 47 people. The TSB's investigation concluded that failure of the locomotive air brake on the night of the disaster was a key factor in the accident.

The investigation into the Lac-Mégantic tragedy later revealed that the cost-cutting train company, Montreal Main and Atlantic Railway (MMA), had instructed its staff not to

use the automatic brakes. Additionally, MMA had received unusual exemptions from Transport Canada—such as operating with a one-man crew, which was also a factor in the Lac-Mégantic disaster.

After the Lac-Mégantic tragedy, Transport Canada drafted new operating rules requiring that all trains left unattended—as the Lac-Mégantic train was on the night of the explosion—be secured by a minimum number of hand brakes.

Despite regular tragedies and a mountain of evidence pointing out obvious dangers to rail workers and public safety, successive governments have refused to properly oversee the industry, let alone prosecute flagrant safety violations. Transport Canada acknowledges that work rules are feckless, and that “it does not approve or enforce company instructions.”

Even the most cursory government oversight will not be tolerated by industry. Last February, after the train 301 derailment, Transport Canada announced a new rule requiring the application of handbrakes on trains in mountainous territory following an emergency use of air brakes. Both of Canada’s largest railway companies, CP Rail and CN Rail, immediately appealed the ruling.

The *Fifth Estate* program also revealed that the initial police investigation, unbeknown to the victims’ families, was conducted by the train company’s own police force, which for over 100 years has been authorized by the government to police the railway’s property and trains.

CP Rail Police told the *Fifth Estate* that their investigation into the fatal accident was “thorough” and “did not result in any charges.” However, the lead safety investigator on the crash, Mark Tataryn, told reporters that after he requested evidence and witness testimony, he was abruptly ordered to stop the investigation just one month after it began. “You’ve got a police agency that is essentially running shop how they want without anybody making sure there is police due diligence,” he said.

Tataryn, who resigned over the debacle, told reporters he was denied his request to access the audio recordings that were aired on the radio moments before the derailment and charged that CP Rail is seeking to cover up the facts. “If I were in the shoes of the [victims’] families, I’d be asking a lot more questions as to what took place.”

The TSB, the supposedly independent federal investigator, has no authority to “assign fault or determine civil or criminal liability.” It is stacked with Liberal and Conservative appointees who have spent their careers switching seamlessly between government and industry. In late January, when the lead safety investigator looking into the train 301 accident, Don Crawford, stated publicly that “there is enough to suspect there’s negligence here and it

needs to be investigated by the proper authority”—i.e., not the police agency bankrolled by CP Rail—he was immediately demoted by the TSB on the grounds that it was “completely inappropriate” for him to voice any opinion “implying civil or criminal liability.”

The railway unions have responded to the *Fifth Estate* documentary by calling for an independent inquiry into the train 301 accident. Francois Laporte, president of Teamsters Canada, the union that represents CP Rail employees, stated, “If CP has nothing to hide, they should welcome an outside investigation for the sake of the families and all those affected by this disaster.”

Laporte’s protests are crocodile tears. For decades, the Teamsters, Unifor and other railway unions have worked hand-in-glove with management and government in deregulating the rail industry and slashing jobs, thereby helping create the treacherous working conditions that rail workers face across North America. Whenever rail workers have tried to fight back and secure safety protections and other improvements in their working conditions, the unions have shut down strike action, and rammed through contracts that further imperil and exploit them.

Last November, when roughly 3,200 CN Rail workers struck nationwide over concerns about long hours, fatigue, and dangerous working conditions, Teamsters Canada rushed after just seven days to reach an agreement with management that met none of the workers’ major strike demands. Laporte then congratulated the Liberal government for “remaining calm and focused” during negotiations, while acknowledging that the “core problem of fatigue in the rail industry can only be resolved through government regulations.”

In a press release, the Alberta Federation of Labour (AFL), called the CP Rail Police investigation into train 301 “flawed” and demanded that an independent criminal investigation take place. But its real intention in posturing as a defender of working people is to channel public outrage over corporate negligence and a flawed investigation back into the unions and the social democratic New Democrats, the same pro-big business organizations that have facilitated the treacherous working conditions on the railways.

The *Fifth Estate*’s documentary, “Runaway Train” aired on January 26th, and can be viewed here.



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