

Washington D.C. Metro From the Inside Out

Maryland Occupational Safety and Health (MOSH) locks out the widow of a Metro employee killed on the job

Posted on [May 24, 2011](#) by [washingtondcmetro](#)

After Automatic Train Control (ATC) techs Jeff Garrard and Sung Oh were killed on the job in January of last year, MOSH scheduled an “Informal Hearing” in Hagerstown, MD, to discuss the citations that MOSH had issued to Metro (which carried a grand total of ZERO dollars, \$0.00, in fines). Employees and/or their representatives were not only invited but have the right, by law, to attend these meetings. Jeff Garrard’s widow, my wife, and I decided to go. The following is my description of what transpired:

[The following is my best recollection of what happened at the Hagerstown MOSH office on Wednesday, August 18, 2010. I’m sure I have some parts of the conversations out of sequence but I have not intentionally left anything out.]

Earlier today Grace Garrard, the widow of ATC technician Jeff Garrard, my wife Pati, and I went to Hagerstown to attend the ‘informal conference’ at the MOSH office regarding the citations MOSH issued to WMATA as a result of the MOSH investigations into the deaths of Sung Oh and Jeff Garrard, as well as the death of Michael Nash.

We arrived early and parked on North Potomac Street near what we thought was the Elizabeth Hagen Center. As we approached the building, the only address we saw was 149. There was another door on the same building further south, but without an address. We approached that door and found a notice that the building had been condemned.

We should have recognized that as a sign.

I called Deloris Carbaugh at the MOSH office (301-791-4699, x100) and she told me the address is 14_R_, not 145. How someone got a 5 from a R is a good question (see the notice below). Then she transferred me to her boss (I did not get his name) who gave us directions. It was just one block south.

He met us outside and as we walked into their offices (which are protected by a key code lock) he asked us, “Who do you represent?”. IIRC, Grace said she represented Jeff Garrard and I said I represented myself. It seemed like an odd question, but I figured it was his way of asking who we were — why we had an interest in the conference.

Things went south from there.

Once he realized that Grace and Pati were not Metro employees and that Grace is Jeff's widow, he started acting strange. I don't know how to describe it. It was like a weird bureaucratic trance. He was sort of mumbling, leaning against the wall, talking to himself, say something like, "Hmm, I'm not sure how we're going to handle this...so you're a family member...I don't know...let me talk with my supervisor...you might not be able to attend the conference...this is highly irregular..."

He left us there and went to another room. I imagine (if he actually spoke with anyone) he told them the bad news — "Some people actually showed up, and one of them is the widow of one of the Metro employees who was killed. How can I get rid of them?!"

When he came back he started to say that since none of us are Local 689 officers that we couldn't attend, but that he would have a meeting with us afterward and tell us "everything that was said". We pointed out that at a minimum I should be allowed to attend since I was an active Metro employee and the "NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE" (below) is directed specifically at employees, and/or their representatives, and clearly states that we have a right to attend!

That didn't seem to faze him. He kept suggesting that only Local 689 officers were allowed to participate. He stuck with that story for a while.

Then he switched gears and said that since Metro requested the conference (which may not even be true), they have the right to decide who attends.

When I questioned that, he suggested that there might be some liability issues. Grace and I pointed out that Grace couldn't sue because Metro carries WC insurance (sorry about your dead husband, buh-bye!). He reluctantly agreed (he seemed surprised that we were aware of that), but said that he's seen people sue (unsuccessfully) anyway.

At that point Grace and I pointed out that if that was the case (liability concerns, Metro prerogative) then the MOSH notice should clearly state that. In fact, the notice contains no stipulations, restrictions, fine print, etc. It simply gives the location, date, and time, and notifies employees that they have a RIGHT to attend. Period. I have included it below.

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This back and forth went on for about a half hour. Finally, around 11:30 am the WMATA people showed up. The main guy was Dorsey Adams, Manager, Rail & Facilities Safety. His phone # is 202-962-14xx, cell # is 202-465-59xx. Email: dmadams at wmata. com.

Mr. Adams was very polite but said that he would have to check with his boss as to whether any of us would be allowed to attend the conference. As you might imagine, that turned into a flurry of phone calls and CYA statements. Adams' boss contacted the WMATA legal dept. and they claimed to be concerned that some details of the ongoing NTSB investigation (which is being held jointly with MOSH) might be disclosed. Then Adams and the MOSH employee said they were concerned that we might repeat those NTSB investigation details and that they and the other WMATA guy would be hauled out of their offices in handcuffs and thrown in jail and charged with a federal offense.

I'm not convinced that their professed concern over the top-secret details of the NTSB investigation was genuine. Up to that point, the MOSH employee seemed to be grasping at straws — desperately trying to think of some reason why we couldn't participate in the conference.

Even if they were sincere, the conference was being held to discuss the citations MOSH issued to WMATA — if we stuck to the facts as written on the citations themselves (which are public) I would think that would have been safe.

Even if the NTSB investigation were a legitimate concern, there's no reason they couldn't have anyone attending the conference sign a non-disclosure agreement. I mentioned this as we were leaving and both Adams and the MOSH employee agreed that that might be an option and said they would mention it to their attorneys.

They all finally decided to postpone the conference to allow the lawyers time to figure out how to handle it.

We all are wondering whether they didn't go ahead and have the conference after we left, but I did ask Adams and the MOSH employee point-blank if they were still going to have a conference there today and they both replied no, that it was being postponed.

The MOSH employee told us that the re-scheduled conference might be in Laurel or Hunt Valley (apparently MOSH is in the process of moving their offices from Laurel to Hunt Valley). It was unclear why they wouldn't reschedule at the Hagerstown office. The MOSH employee said the conference was being held in Hagerstown because that's the office

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the accident investigators work out of.

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[The notice below was copied and pasted directly from page 4 of a pdf file of the MOSH "Citation and Notification of Penalty". The address, date, and time were written in by hand but easily readable. I've done my best to correct typos that were created in the copy&paste process and accurately represent page 4 in it's entirety.]:

Department of Labor, Licensing and Regulation

Division of Labor and Industry

Maryland Occupational Safety and Health

1100 N. Eutaw Street, Room 613

Baltimore, MD 21201

Phone: (410) 767-2215 FAX: (410) 767-2003

NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with MOSH to discuss the citation(s) issued on

07/22/2010. The conference will be held at: Region 5 Office 145 North Potomac Street, Elizabeth Hagen Center, Hagerstown, MD, 21740 (location)

on 8/18/10 (date) at 11 am. (Time)

Employees and/or representatives of employees have a right to attend an informal conference.

NOTICE TO EMPLOYEES – Any Employee or representative of employees who believes that any period of time

fixed in this Citation for the correction of a violation is unreasonable has the right to contest such time for

correction by submitting a letter to the Commissioner at the address shown above within 15 work days (excluding

weekends and state holidays) of the issuance of this citation.

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EMPLOYER DISCRIMINATION UNLAWFUL – The law prohibits discrimination by an employer against an

employee for filing a complaint or for exercising any rights under the Maryland Occupational Safety and Health

Act. An employee who believes that he or she has been discriminated against may file a complaint with the

Commissioner at the address shown above no later than 30 days after the discrimination.

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To date, we have not received any notice of a rescheduled “informal hearing”.

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2 Responses to *Maryland Occupational Safety and Health (MOSH) locks out the widow of a Metro employee killed on the job*



Ted K. says:

May 28, 2011 at 3:54 AM

The wife, Mrs. Garrard, of one of the deceased could be considered her husband’s representative because of her connection to his estate. You should confirm this with an attorney.

[Background music for the hearing - *La Cucaracha* ?]

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washingtondcmetro says:

May 28, 2011 at 4:47 AM

Good point.

Somehow I doubt that we will be informed of any other “informal meetings” (if there are any).

The entire system seems to be all but pointless. WMATA killed two (2) employees and the amount of the fine was \$0.00. Even if the fine was substantial, it wouldn't come from the pocket(s) of those responsible. They're still working for Metro in the same positions (as far as I know).

Hey, stuff happens, right?

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