

REPORT 4, OVERSIGHT OF PASSENGER VEHICLE SAFETY, OF THE FALL 2016 REPORTS OF THE AUDITOR GENERAL OF CANADA

Report of the Standing Committee on Public Accounts

Hon. Kevin Sorenson Chair

MAY 2017
42nd PARLIAMENT, 1st SESSION

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THE STANDING COMMITTEE ON PUBLIC ACCOUNTS

has the honour to present its

TWENTY-SEVENTH REPORT

Pursuant to its mandate under Standing Order 108(3)(g), the Committee has studied Report 4, Oversight of Passenger Vehicle Safety, of the Fall 2016 Reports of the Auditor General of Canada and has agreed to report the following:

"REPORT 4—OVERSIGHT OF PASSENGER VEHICLE SAFETY—TRANSPORT CANADA," FALL 2016 REPORTS OF THE AUDITOR GENERAL OF CANADA

INTRODUCTION

According to the Office of the Auditor General of Canada (OAG), in 2014, the Canadian automotive industry had the following characteristics:

- 25 million Canadians were licenced to drive:
- there were over 23.5 million vehicle registrations, including over 21.7 million for automobiles and light trucks;
- regarding automobile-related accidents, Transport Canada (TC or the Department) recorded 149,900 injuries, of which 9,647 were serious injuries, and 1,834 fatalities; and
- notably, automobile injuries were at their lowest point since the 1970s.¹

The OAG asserts that it is

[Important] to identify safety issues and emerging risks because vehicles are becoming increasingly complex. Technology is evolving faster than the regulations and standards designed to protect Canadians. Semi-autonomous vehicles, for example, are currently on Canadian roadways despite being controlled by unregulated software. Regulators will eventually have to assess the safety risks and benefits, decide whether these vehicles must be regulated, and if so, decide how to regulate them.²

The OAG explains that Transport Canada's Motor Vehicle Safety Oversight Program "oversees regulated vehicles and equipment, as well as their manufacturers and importers, to ensure that they meet the requirements of the <u>Motor Vehicle Safety Act</u> and related regulations." The program's activities include:

- compliance promotion, such as publishing electronic information and consultations;
- verification of compliance through vehicle testing, audits, and investigations; and

Office of the Auditor General of Canada (OAG), "Report 4—Oversight of Passenger Vehicle Safety—Transport Canada," Fall 2016 Reports of the Auditor General of Canada, paras. 4.1 and 4.2.

² Ibid., para. 4.3.

³ lbid., para. 4.7.

enforcement through actions such as seizure or prosecution.⁴

Lastly, it should be noted that in 2011, "the governments of Canada and the United States created the Regulatory Cooperation Council to facilitate closer regulatory cooperation and facilitate harmonization." 5

In the Fall of 2016, the OAG released a performance audit that "examined whether Transport Canada's regulatory framework and its oversight of vehicle safety defects and recalls have been adequate to respond to emerging safety risks and issues in a timely manner."

On 3 April 2017, the Committee held a hearing on this audit. In attendance from the OAG were Michael Ferguson, Auditor General of Canada, and Richard Domingue, Principal.⁷ Transport Canada was represented by Michael Keenan, Deputy Minister; Laureen Kinney, Assistant Deputy Minister, Safety and Security; and, Kim Benjamin, Director General, Road Safety and Motor Vehicle Regulation.⁸

It should be noted that a hearing to study this audit was originally convened on 6 March 2017; however, the Deputy Minister—the designated accounting officer per the *Financial Administration Act*—did not appear. This was very disconcerting to the Committee because it clearly indicated in its invitation to Transport Canada that its oversight function requires the presence of the designated accounting officer in order to properly investigate/study matters raised in the OAG's reports. Consequently, and with unanimous consent, the Committee agreed to postpone the meeting of 6 March until such time as the Deputy Minister became available, resulting in the meeting of 3 April. 10

FINDINGS AND RECOMMENDATIONS

Maintaining Motor Vehicle Safety Regulations in a Timely and Proactive Manner

The OAG examined whether Transport Canada "maintained a regulatory framework that was responsive to vehicle safety issues and emerging risks in a timely manner;" whether it "monitored new technologies to improve vehicle safety and included

5 Ibid., para. 4.10.

⁴ lbid.

⁶ lbid., para. 4.12.

House of Commons Standing Committee on Public Accounts, *Evidence*, 1st Session, 42nd Parliament, 3 April 2017, Meeting 50.

⁸ Ibid

⁹ House of Commons Standing Committee on Public Accounts, Evidence, 1st Session, 42nd Parliament, 3 April 2017, Meeting 47.

¹⁰ Ibid.

them in the development of new regulations;" and "whether the Department consulted with manufacturers on emerging safety technologies and risks." 11

Specifically, the OAG's review of "selected relevant Canadian motor vehicle safety standards (CMVSS) and the regulatory process showed that three important standards were outdated or not working as expected:" CMVSS 108 Lighting System and Retroflective Devices, CMVSS 210.2 Lower Universal Anchorage Systems for Restraint Systems and Booster Seats, and CMVSS 214 Side Door Strength.¹²

Additionally, the OAG "conducted a five-year analysis of the Department's regulatory changes to the *Motor Vehicle Safety Regulations*. For six out of nine substantive regulatory amendments (67%), [the OAG] found that the Department waited for the National Highway Traffic Safety Administration in the United States to develop new standards or change existing ones before proposing regulatory action in Canada," a reactive approach that creates delays in implementing new standards, resulting in some cases of passenger vehicles not being equipped with the latest safety features.¹³

The OAG also found three examples of amendments to standards that took between eight and 13 years to complete.¹⁴

Lastly, the OAG found that the Department did not adequately consult with stakeholders with regard to developing and amending regulations. For example, the OAG found that "when developing regulations in advance of publication in the Canada Gazette, Transport Canada generally did not consult with stakeholders such as consumer associations, safety advocacy groups, vehicle parts and equipment suppliers, the insurance industry, medical associations, and police." Consequently, the OAG contends that vehicle "manufacturers may have exercised disproportionate influence on regulatory decision making and caused delays in updating the regulations."

In light of these considerations, the OAG recommended that Transport Canada "provide regular public updates on the status of its regulatory plans." In its action plan, the Department stated that it agreed with the recommendation and that "information on planned motor vehicle safety regulatory amendments, including status and notification of when the department is ready to seek input for the development of draft regulations, along with contact information will be published" and updated every six months. ¹⁸

OAG, "Report 4—Oversight of Passenger Vehicle Safety–Transport Canada," Fall 2016 Reports of the Auditor General of Canada, para. 4.26.

¹² Ibid., para. 4.37.

¹³ Ibid., para. 4.28.

¹⁴ lbid., para. 4.29.

¹⁵ lbid., para. 4.32.

¹⁶ Ibid.

¹⁷ Ibid., para. 4.35.

¹⁸ Transport Canada, <u>Detailed Action Plan</u>, p. 1.

Notwithstanding the above, the Committee recommends:

RECOMMENDATION 1

That, by 31 October 2017, *Transport Canada* confirm in writing to the House of Commons Standing Committee on Public Accounts that it provides regular public updates on the status of its regulatory plans.

The OAG also recommended that Transport Canada should:

- publicly announce its intention to prepare or update regulations, and invite comments on technical feasibility and other considerations within a reasonable time limit;
- actively seek input from expert stakeholders such as the insurance industry, medical associations, and police; and
- publicly disclose a summary of all stakeholder comments, including technical and other considerations, within a reasonable time limit.¹⁹

The Department agreed with this recommendation and in its action plan committed to:

- specifically invite comments for the expanded regulatory amendments list
- "actively seek input from expert stakeholders; and
- publish a summary of comments received by stakeholders during its preconsultation period."²⁰

When questioned about these issues, Michael Keenan, Deputy Minister, Transport Canada, responded as follows:

In response to the Auditor General's report, we're putting in place a couple of key changes to rectify that. First, we will be publishing on a website our regulatory plan for the next three years. I think we're doing three years at a time. Then all Canadians will be able to see where we intend to strengthen safety regulations in motor vehicles over the next three years. It gives them an opportunity to identify a regulation that's important to them and to provide their perspective to us.

In addition to that, when we're in this pre-regulatory phase, we will be making a point of proactively reaching out to, quite frankly, the kind of stakeholders you listed in your question, saying, "We are working on this issue. Do you have any views on this particular issue? If so, please [let] us know about those views."

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OAG, "Report 4—Oversight of Passenger Vehicle Safety-Transport Canada," Fall 2016 Reports of the Auditor General of Canada, para. 4.36.

²⁰ Transport Canada, <u>Detailed Action Plan</u>, p. 1.

So we're making a concerted effort to put in place a regime wherein very early in the regulatory process—because there's work that has to be done before one gets to a set of draft regulations—we're telling everybody about what we're doing.²¹

In light of the importance of ensuring proper stakeholder engagement and input, the Committee recommends:

RECOMMENDATION 2

That, by 31 October 2017, *Transport Canada* provide the House of Commons Standing Committee on Public Accounts with a report detailing the implementation of an expanded and standardized consultation process seeking comments in a timely manner from expert stakeholders on Motor Vehicle Safety's regulatory initiatives.

Completeness of Collision and Injury Data

The OAG examined "whether Transport Canada collected sufficient and reliable Canadian data to update regulations" and found that the Department "possessed only partial data on collisions and injuries in the National Collision Database." However, some of this is due to the fact that "Transport Canada cannot compel provinces and territories to provide data, so the database is incomplete."

The OAG also found that the Department did not have access to complete data from "insurance companies, hospitals, police, and others involved in vehicle safety matters," without which, "Transport Canada's ability to identify collision and injury trends, shape vehicle safety priorities, and prioritize research activities is limited."

Thus, in light of these considerations, the OAG recommended that in developing new or modifying existing safety standards, Transport Canada should

- assess whether its collision and injury data can adequately support evidence-based decisions based on its quality, reliability, and relevance; and
- take appropriate measures, including working with provinces, territories, and other stakeholders, such as the public, private, academic and institutional sectors, to improve the quality and scope of data needed to inform decisions.²⁶

²¹ House of Commons Standing Committee on Public Accounts, *Evidence*, 1st Session, 42nd Parliament, 3 April 2017, Meeting 50, 1550.

OAG, "Report 4—Oversight of Passenger Vehicle Safety-Transport Canada," Fall 2016 Reports of the Auditor General of Canada, paras. 4.41 and 4.42.

²³ Ibid.

²⁴ Ibid., para. 4.43.

²⁵ Ibid.

²⁶ lbid., para. 4.44.

The Department agreed with this recommendation and committed that it will

- assess the adequacy of collision and injury data; and
- work with stakeholders and the provinces and territories that own and provide the collision and injury data to develop an action plan to improve data quality.²⁷

With regard to the timely collection and use of data, Mr. Keenan stated the following:

The department is assessing this data against its regulatory needs and developing an action plan to improve data quality and timeliness. Transport Canada is also committed to increasing the transparency of the use of data in the development of regulations. The process to codify this transparency has been implemented, and a summary of the assessment of evidence and research will be more clearly outlined in the regulatory impact analysis statements that are published as part of the regulatory process in the *Canada Gazette*.²⁸

In continuing its priority of stressing the importance of quality data collection and use, the Committee therefore recommends:

RECOMMENDATION 3

That, by 31 July 2018, *Transport Canada* provide the House of Commons Standing Committee on Public Accounts with a report detailing how it has implemented its action plan to improve the quality of collision and injury data.

How Research Informed Regulations

The OAG examined whether Transport Canada "conducted research and used evidence to update standards or develop regulations." 29

The OAG found that the Department did not consistently disclose publicly how its research was used to develop safety standards.³⁰ Additionally, the OAG "found that the Department generally followed the lead of other countries, most often the United States, when modifying Canadian standards instead of using its own work to initiate changes," which in the view of the OAG, "was problematic because it may have caused delays in updating Canada's regulatory framework.³¹ In addition, Canada has unique considerations, such as climate, more variable hours of daylight, road infrastructure, and

²⁷ Transport Canada, Detailed Action Plan, pp. 1-2.

²⁸ House of Commons Standing Committee on Public Accounts, *Evidence*, 1st Session, 42nd Parliament, 3 April 2017, Meeting 50, 1540.

OAG, "Report 4—Oversight of Passenger Vehicle Safety-Transport Canada," Fall 2016 Reports of the Auditor General of Canada, para. 4.41.

³⁰ lbid., para. 4.45.

³¹ Ibid., para. 4.46.

vehicle fleet differences that need to be appropriately addressed when making changes to its regulations."³²

Lastly, the OAG found that "Transport Canada developed some standards with little data to support them," and "did not consistently use results from its own collaborative international research in its development of Canadian standards."

In light of these considerations, the OAG recommended that Transport Canada "clearly disclose how it used evidence and scientific research to inform its development or modification of motor vehicle safety standards."

Transport Canada agreed with this recommendation and stated in its action plan that it has already implemented an "updated regulatory process providing information on how evidence and scientific research was used to inform development or modification of Motor Vehicle Safety standards." Mr. Keenan also added that for "the next proposed regulatory change that Transport Canada makes on motor vehicle safety, [the public] would be able to see in the regulatory impact statement, published with it in the *Canada Gazette*, a description of both the data and the research that were used as the basis for this."

Nevertheless, the Committee recommends:

RECOMMENDATION 4

That, by 31 October 2017, *Transport Canada* provide the House of Commons Standing Committee on Public Accounts with a report detailing the progress of the updated regulatory process and how evidence and scientific research is used to inform the development and/or modification of Motor Vehicle Safety Standards.

Long-term Operational Plan for the Motor Vehicle Safety Directorate

The OAG found that the Motor Vehicle Safety Directorate did not have a long-term operational plan for its activities, which also meant a "lack of stable funding to fulfill its research and regulatory mandate." This resulted in short-term budgetary decisions with negative outcomes. Specifically, the OAG found that the Directorate

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32 Ibid.
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33 Ibid., para. 4.47 and 4.49.

Transport Canada, <u>Detailed Action Plan</u>, p. 2.

38 Ibid.

³⁴ Ibid., para. 4.50.

House of Commons Standing Committee on Public Accounts, *Evidence*, 1st Session, 42nd Parliament, 3 April 2017, Meeting 50, 1630.

OAG, "Report 4—Oversight of Passenger Vehicle Safety-Transport Canada," Fall 2016 Reports of the Auditor General of Canada, para. 4.51.

- purchased vehicles in anticipation of budgetary restrictions, but did not use some of them for testing for several years after purchase;
- cut the operating budget, yet proceeded with a major infrastructure project;
- cancelled meetings with stakeholders and conference attendance; and
- cancelled outreach programs that provided useful information to Transport Canada's collision investigators.³⁹

Therefore, the OAG recommended that Transport Canada "develop a long-term" operational plan for the Motor Vehicle Safety Directorate. This plan should identify planned activities, budget, and level of effort needed to deliver on its mandate."40 The Department agreed with this recommendation and committed to the following:

Transport Canada will review the linkages between the departmental planning, research and regulatory activities to update the long-term planning process. The Motor Vehicle Safety Directorate will have a multi-year operational plan for motor vehicle safety. 4

Therefore, the Committee recommends:

RECOMMENDATION 5

That, by 31 October 2017, Transport Canada provide the House of Commons Standing Committee on Public Accounts with a report outlining its long-term operational plan for the Motor Vehicle Safety Directorate.

Knowledge of Manufacturer Investigations Related to Critical Safety Issues

The OAG found that the Department communicated frequently with manufacturers "to discuss alleged safety defects that were identified through complaints or its own investigations," and it "requested information on these safety defects from manufacturers."42 Examples of these requests included:

- lists of all affected part numbers;
- number of complaints received to date;
- warranty claims;

³⁹ Ibid.

⁴⁰ Ibid., para. 4.63.

⁴¹ Transport Canada, Detailed Action Plan, p. 2.

OAG, "Report 4—Oversight of Passenger Vehicle Safety-Transport Canada," Fall 2016 Reports of the Auditor 42 General of Canada, para. 4.85.

- installation information, such as the point at which a part was assembled on the production line;
- the manufacturer's assessment of failures; and
- whether the manufacturer was conducting its own investigation or review related to a specific ongoing issue.⁴³

Moreover, the OAG noted that "manufacturers provided information requested, but they did not share information related to other internal safety investigations with Transport Canada. As a result, manufacturers had much more information on potential safety defects." For example, between 2010 and 2015, for about one third of all recalls issued, "manufacturers investigated potential safety issues and sent out recall notices without Transport Canada's prior knowledge."

Additionally, the OAG noted that the Department "did not request information about other important or critical safety-related issues that manufacturers identified and were actively investigating";⁴⁶ if it had, the OAG contends that the Department "could raise relevant complaints with manufacturers as soon as they are received. This is important because it would help ensure early identification and analysis of safety-related defects."

Lastly, according to the OAG, the provisions of <u>Bill S-2</u>, <u>An Act to amend the Motor Vehicle Safety Act and to make a consequential amendment to another Act</u>, ⁴⁸ if enacted, "would address the information imbalance between Transport Canada and the manufacturers." The bill proposes

- "new regulatory powers to establish information reporting requirements that would help Transport Canada identify safety defects sooner," 50 and
- to require "companies operating in Canada to be more aware of foreign defects and issues of non-compliance for vehicles that are similar to those sold in Canada."⁵¹

44 lbid., para. 4.87.

⁴³ Ibid.

⁴⁵ Ibid., para. 4.88.

⁴⁶ Ibid., para. 4.89.

⁴⁷ Ibid., para. 4.89.

As of 4 May 2017, the bill had passed through the Senate and had been introduced in the House of Commons on 9 February 2017. Source: LegisInfo

⁴⁹ OAG, "Report 4—Oversight of Passenger Vehicle Safety-Transport Canada," Fall 2016 Reports of the Auditor General of Canada, para. 4.90.

⁵⁰ Ibid., para. 4.90.

⁵¹ Ibid., para. 4.90.

In light of these findings, the OAG recommended that Transport Canada "request from manufacturers information on their internal investigations into critical ongoing safety-related issues with their vehicles." The Department agreed with this recommendation and committed to developing new regulations to implement the new authorities, if the bill is passed into law. 53

When questioned about the bill's provisions and proposed additional authorities, Mr. Keenan provided the following:

Should Bill S-2 receive royal assent, then Transport Canada would have a much stronger set of authorities and powers to compel information from manufacturers. We put the regulations into place to effect [sic] that. For example, there is a new administrative monetary penalty scheme in Bill S-2. Once we've put the regulations in for the information requirements, should a manufacturer refuse, then they would be subject to administrative monetary penalties by the department.⁵⁴

Therefore, the Committee recommends:

RECOMMENDATION 6

That, should Bill S-2 receives royal assent, *Transport Canada* provide the House of Commons Standing Committee on Public Accounts, within 180 of royal assent, with a plan detailing how the bill's new authorities will be implemented into the passenger vehicle safety regulatory regime.

The OAG also recommended that Transport Canada request information from manufacturers "on their internal processes for identifying and reporting safety defects." The department agreed with this recommendation and stated in its action plan that, as of the end of January 2017, it had developed "a process to support a new authority in the [Motor Vehicle Safety Act] to request that major auto manufacturers provide information on their data sources and internal processes for identifying and reporting safety defects." However, it did not provide any specific details about this new process.

Therefore, the Committee recommends:

⁵² Ibid., para. 4.91.

⁵³ Transport Canada, <u>Detailed Action Plan</u>, p. 3.

House of Commons Standing Committee on Public Accounts, *Evidence*, 1st Session, 42nd Parliament, 3 April 2017, Meeting 50, 1650.

OAG, "Report 4—Oversight of Passenger Vehicle Safety-Transport Canada," Fall 2016 Reports of the Auditor General of Canada, para. 4.94.

Transport Canada, <u>Detailed Action Plan</u>, p. 3.

RECOMMENDATION 7

That, by 31 October 2017, *Transport Canada* provide the House of Commons Standing Committee on Public Accounts with a report outlining its process to support a new authority in the *Motor Vehicle Safety Act* to request that major auto manufacturers provide information on their data sources and internal processes for identifying and reporting safety defects.

OTHER OBSERVATIONS

It should be noted that the OAG also examined the following areas and found that Transport Canada had administered them adequately, and thus, made no related recommendations in this audit:

- having internal processes to identify safety defects and trends and appropriately communicating with manufacturers;⁵⁷
- ensuring that manufacturers' safety defect notifications were timely and complete;⁵⁸ and
- monitoring repair rates for recalled vehicles and exploring ways to increase them.⁵⁹

CONCLUSION

In this audit, the OAG concluded that "Transport Canada did not maintain an up-to-date regulatory framework that responded to emerging safety risks and technological issues. As a result, the approach failed to ensure that Canadian-driven passenger vehicles had the highest possible safety features and technologies." Moreover, although "the Department's oversight of vehicle safety defects and recalls was adequate, [it] knew little about the critical safety issues that manufacturers were investigating in their vehicles." Consequently, this limited the "Department's ability to identify safety defects early and to influence manufacturers' recalls."

In order to address these concerns, the Committee made seven recommendations to help ensure that Transport Canada is able to administer a robust and comprehensive passenger vehicle safety regime, to better ensure that Canada's roads and highways are safer for all.

⁵⁷ OAG, "Report 4—Oversight of Passenger Vehicle Safety-Transport Canada," Fall 2016 Reports of the Auditor General of Canada, para. 4.72.

⁵⁸ lbid., para. 4.104.

⁵⁹ Ibid., para. 4.111.

⁶⁰ Ibid., para. 4.118.

⁶¹ Ibid.

SUMMARY OF RECOMMENDED ACTIONS AND ASSOCIATED DEADLINES

Table 1 – Summary of Recommended Actions and Associated Deadlines

Recommendation	Recommended Action	Deadline
Recommendation 1 (p. 4)	Transport Canada needs to confirm in writing to the Committee that it provides regular public updates on the status of its regulatory plans.	31 October 2017
Recommendation 2 (p. 5)	Transport Canada needs to provide the Committee with a report detailing the implementation of an expanded and standardized consultation process seeking comments in a timely manner from expert stakeholders on Motor Vehicle Safety's regulatory initiatives.	31 October 2017
Recommendation 3 (p. 6)	Transport Canada needs to provide the Committee with a report detailing how it has implemented its action plan to improve the quality of collision and injury data.	31 July 2018
Recommendation 4 (p. 7)	Transport Canada needs to provide the Committee with a report detailing the progress of the updated regulatory process and how evidence and scientific research are used to inform the development and/or modification of Motor Vehicle Safety Standards.	31 October 2017
Recommendation 5 (p. 8)	Transport Canada needs to provide the Committee with a report outlining its long-term operational plan for the Motor Vehicle Safety Directorate.	31 October 2017
Recommendation 6 (p. 10)	Transport Canada needs to provide the Committee with a plan detailing how Bill S-2's proposed new authorities will be implemented into the passenger vehicle safety regulatory regime.	Within 180 days of royal assent

Recommendation 7 (p. 11)	Transport Canada needs to provide the Committee with a report outlining its process to support a new authority in the Motor Vehicle Safety Act to request that major auto manufacturers provide information on their data sources and internal processes for identifying and reporting safety defects.	31 October 2017
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APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
Department of Transport	2017-03-06	47
Kim Benjamin, Director General, Road Safety and Motor Vehicle Regulation		
Helena Borges, Associate Deputy Minister		
Laureen Kinney, Assistant Deputy Minister, Safety and Security		
Merz Rustom, Director, Motor Vehicle Standards, Research and Development		
Office of the Auditor General of Canada		
Richard Domingue, Principal		
Michael Ferguson, Auditor General of Canada		
Department of Transport	2017-04-03	50
Kim Benjamin, Director General, Road Safety and Motor Vehicle Regulation		
Michael Keenan, Deputy Minister		
Laureen Kinney, Assistant Deputy Minister, Safety and Security		
Office of the Auditor General of Canada		
Richard Domingue, Principal		
Michael Ferguson, Auditor General of Canada		

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings (Meetings Nos. 47, 50, 57) is tabled.

Respectfully submitted,

Hon. Kevin Sorenson Chair