

## Plans called for longer warning, lawyers say

By Eva Ruth Moravec

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A Union Pacific freight train speeds by around 65 mph where crime scene technicians and lawyers gather evidence at the scene of the Nov. 15 train wreck where four died while riding on a parade float that was struck by a freight train, in Midland, TX, Monday, Dec. 17, 2012.

Photo: Bob Owen, San Antonio Express-News

MIDLAND — Engineering plans found at the scene of last month's fatal train crash called for a 25-second warning, or five seconds more than what was given at the time, according to lawyers representing four crash victims.

Experts hired by attorneys [Kevin Glasheen](#) and Bob Pottroff found the documents in a signal cabinet Monday. The cabinets are located at every crossing and hold plans, circuit boards and other items.

For several hours that day, a dozen workers in neon vests and hard hats documented every inch of the Union Pacific crossing where four veterans were killed and 16 other people were injured.

The longer warning time, the lawyers say, might have saved the lives of Army Sgt. [Joshua Michael](#), 34; Army Sgt. [William Lubbers](#), 43; Marine Chief Warrant Officer [Gary Stouffer](#), 37; and Army Sgt. Maj. [Lawrence Boivin](#), 47. The men were among a dozen injured veterans and their wives who were riding in a Nov. 15 parade in their honor as part of the nonprofit organization Show of Support's annual [Hunt for Heroes](#).

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Twenty seconds before the crash, red flashing lights and bells were activated at the crossing at South Garfield Street.

Eight seconds later, float driver [Dale Andrew Hayden](#), 50, entered the crossing, according to the [National Transportation Safety Board](#). As the flatbed crossed the tracks, the crossing arm descended on the passengers, and instants later, a freight train heading east at 62 mph crashed into the back of the trailer.

"All the guys that were on the parade float have said, 'If we'd had three more seconds, nobody would have been hurt,'" Glasheen said. "They say they were moving at 'battle speed' to get their wives off, and if they'd had a few more seconds, they would have all been off."

To meet [Federal Railroad Administration](#) guidelines, the signal system must be tested monthly; UP spokeswoman [Raquel Espinoza-Williams](#) said no issues were found in an inspection Oct. 18.

FRA also requires warning systems to be activated at least 20 seconds before a train approaches an intersection, and that the systems are maintained to function as designed.

In 1992, the [Texas Department of Transportation](#) approved design plans for the crossing that called for a 30-second warning time.

Glasheen said he couldn't find evidence that [TxDOT](#) approved a modification to 25 seconds. A TxDOT spokeswoman declined to comment, citing ongoing legal proceedings.

Espinoza-Williams said plans kept in signal closet are typically the most up-to-date version, but said the crossing's history, including signal plans, still is being reviewed. UP has said the signal system complies with FRA regulations and questions Hayden's actions.

"We wouldn't be having this conversation if the truck had not proceeded into the crossing eight seconds after the signals were activated," Espinoza-Williams said. "That's what we believe the investigation needs to focus on."

Glasheen and Pottroff have sued [UP and Smith Industries Inc.](#), who owns the flatbed trailer, claiming they were negligent. But while the lawyers' arsenal grows — and flowers in memorial wreaths and bouquets at the scene fade and die — memories of the tragic crash remain strong for residents and witnesses.

"Every time I hear a loud bang or a truck moving down the street or a train horn, it instantly comes back to me," said parade spectator [Joe Cobarobio](#), 39, who took photographs and video of the incident. "I've had panic attacks, nightmares, sleepless nights. I just keep reliving it, and it's been really hard for me."

[Scott Moore](#), 25, works near the site and witnessed the crash. After the trailer was struck by the train, the trailer bounced in the air and spun around, landing on a Midland County officer's patrol car that was blocking traffic. He ran out to help, he said, but froze after seeing a veteran's body in the parking lot.

Since then, he said, he's stayed busy to help quell memories of the chaotic scene.

For a while, trains slowed to 15 mph in the 70-mph zone, and crews sounded their horns, although they aren't required to do so in the designated quiet zone. By Wednesday, trains resumed their faster speeds and no longer were sounding horns.

"It's just a ghost thought now, but I've got a constant reminder right there," he said, motioning to the tracks.

Dr. [Sudip Bose](#), Odessa's medical director and a Show of Support volunteer, said witnesses and others may suffer from post-traumatic stress disorder. Relatives of those affected by the crash should be aware of potential symptoms, he said, adding that the recent mass shooting at an elementary school in Connecticut may have triggered wreck memories.

"It's not always the ones who are physically injured who are victims," Bose said. "Just like Connecticut, there are many people affected by these tragedies outside of those who lost someone. What I'm concerned about is the invisible patient."

Terry and [Paula Johnson](#), Show of Support founders who've organized the Hunt for Heroes for veterans and their spouses since 2004, reportedly remain distraught but plan to continue the event.

"It's been a tough time for them," event volunteer [Sonny Cleere](#) said. "It's been an emotional trauma for them, and it's just going to take time to work out. We may never know the reason why it happened but we have to move on."

Overcoming the tragedy also apparently is proving difficult for Hayden, who is receiving treatment and medication for sleeping and depression, said [Dennis Wright](#), a readjustment counselor for the [Midland Vet Center](#).

Midland police completed their investigation without charging him, but the Midland County district attorney's office is looking at the case.

DA [Teresa Clingman](#) declined to comment on the investigation.

Hayden's attorney, C.H. "Hal" [Brockett Jr.](#), said Hayden would not be available for an interview at least until he's cleared of any potential criminal charges.

"My job is to watch out for him, and I think he's doing better," Brockett said, "but he's not ready to make any comments."

In a photo Cobarobio took shortly after the wreck, he said Hayden appears dumbfounded as veterans' wives rushed back to the float after falling or jumping off.

"The photos show the veterans caught off-guard," Cobarobio said. "(Hayden) had a blank look on his face, just sitting there, as the women were running back to their husbands."

He said his memory card and camera were seized by Midland County officers who arrested him at the scene, but a charge of interfering with the duties of a public servant was dropped after a night in jail, and the card and camera were returned two weeks ago, he said. He sold all copies of the photos and video to Glasheen for an undisclosed amount after declining offers of several thousand dollars from national media. While the video is too graphic, Glasheen said he plans to use some of the photographs in court.

Cobarobio said he avoids the crossing and is trying to move on.

So is Show of Support, Cleere said.

The organization will hold a reunion hunt Jan. 11 for six veterans who'd participated in past years' events and wanted to show their support for the program.

"It's still on everyone's mind. It's something that we'll always remember, but we have to continue," Cleere said. "We're not going to surrender."

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Reference: [http://www.mysanantonio.com/news/local\\_news/article/Plans-called-for-longer-warning-lawyers-say-4129259.php](http://www.mysanantonio.com/news/local_news/article/Plans-called-for-longer-warning-lawyers-say-4129259.php)