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## United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

August 24, 2018

The Honorable Robert L. Sumwalt  
Chairman  
National Transportation Safety Board  
490 L'Enfant Plaza, SW  
Washington, DC 20594

Dear Mr. Sumwalt:

I write today to request that the National Transportation Safety Board (NTSB) immediately cease all efforts to shield the release of certain documents related to the March 15, 2018, collapse of a pedestrian bridge under construction at Florida International University (FIU).

Since the bridge collapsed on March 15, killing six people and injuring a number of others, the NTSB and the Florida Department of Transportation (FDOT) have refused to release public records relating to the bridge and its construction that were produced between February 20, 2018, and March 17, 2018. On August 9, 2018, the NTSB released an update on the status of its investigation into the collapse that included pictures from March 13 and 14, 2018, that were provided by the bridge construction company showing substantial cracks in support members of the bridge. Somewhat inexplicably, both agencies continue to refuse to release FDOT and other public records that might explain how those cracks got there, whether any FDOT inspections of the cracks were conducted, and, perhaps most critically, why traffic was permitted to continue flowing under a bridge with apparent structural issues.

To date, both the NTSB and FDOT have argued that the documents are somehow shielded from release by a NTSB regulation that prohibits parties to an investigation from releasing information "obtained during an investigation at any time prior to the NTSB's public release of information..." This reasoning, however, completely ignores the fact that these documents were not "obtained" by FDOT during an investigation. Rather, they were documents produced by the department *before* the investigation ever began and they are considered public records under the Florida public records law. Invocation of the NTSB regulation as a "shield" against release does not somehow reclassify the documents – they remain public records under Florida law.

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On August 21, 2018, a Leon County circuit court judge used this very analysis in ordering the release of the records in response to a lawsuit brought by the *Miami Herald*. In the opinion, the court stated that while there may be a question involving documents obtained by parties to an investigation from private sources, the court "has difficulty envisioning how that argument applies to materials maintained by the State of Florida which were already public records at the time they were provided to the NTSB."

Now, it is my understanding that your agency has directed the U.S. attorney for the Northern District of Florida to file a notice removing this case from state court to federal court in an effort to overturn the state judge's ruling and further delay the release of these public records.

I find the NTSB's move to overturn the court ruling and continue to shield these records appalling. It's not in the interest of public safety. The victims' families and the public need to know what steps regulators did or did not take to ensure the safe construction of the FIU pedestrian bridge.

Additionally, the FIU bridge collapse could serve as a cautionary tale for other federally funded bridge projects in Florida that may involve inadequate supervision. Release of these documents could prove invaluable in determining whether more oversight is needed from both state and federal authorities to help prevent this kind of tragedy from happening again.

In April 2018, media outlets in Orlando reported that at least one of the bridges in the I-4 Ultimate project had cracks. The main contractor in I-4 Mobility Partners, Skanska Infrastructure Development Inc. of Alexandria, VA, has also faced allegations regarding cracks in the ongoing Pensacola Bay Bridge project in Pensacola, Florida. All of these incidents, taken as a whole, raise serious concern about whether regulators are exercising proper safety oversight of public-private partnership projects and, in the case of the I-4 Ultimate project and the FIU pedestrian bridge collapse, protecting federal funds from waste, fraud or abuse.

Accordingly, I ask that your agency immediately halt any further court or other legal actions on this matter and release the documents that the *Miami Herald* has requested. The public has a right to know.

Sincerely,



BILL NELSON  
Ranking Member

cc: The Honorable John Thune, Chairman