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Written Statement of

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Committee on Homeland Security
Subcommittee on Transportation & Maritime Security

Hearing on

On the Frontlines in Turbulent Times:
Workforce Perspectives on the State of Transportation Security

Good morning. Thank you, Chairwoman Coleman and Ranking Member Gimenez, for inviting me to testify before the committee today.

I speak today on behalf of more than 150,000 members of the Transport Workers Union of America (TWU). We represent subway and bus operators, airline ramp workers, flight attendants, airport gate agents, school bus drivers, bikeshare workers, mechanics

of all kinds, and many other crafts in the public transit, airline, railroad, utility, university, and service sectors across our nation.

98% of our members are essential workers who have showed up to work, day in and day out during this pandemic, keeping our economy going and our country moving.

Every sector of the transportation industry has been affected by this pandemic and our members have been on the frontlines, enduring isolation, illness, and even death from Covid-19. More than 10 percent of our members have tested positive for or been quarantined after exposure and 189 of us have been killed by the virus. This has been a challenging time for all transportation workers.

Now, as passengers and riders return to our airlines, railroads, and transit, our members face unprecedented risk of assault on the job. The unruly behavior that we face on every mode of transportation is undermining the security of our country and is putting our workers in harms way. Action is urgently needed from the federal government, as well as local governments and employers, to keep workers safe as they safely deliver us to our destinations through our skies, across our railroads, and on city streets.

The return of passengers to our transportation system has brought staffing concerns to forefront. With the upcoming holiday season set to see the most travel since 2019, the TWU is very concerned that our carriers and agencies are not ready to safely, securely, and efficiently move the volume of people they will need to. As evidenced by the rash of service disruptions we have seen over the past several months, airlines and transit agencies do not have enough workers to handle the return of normal demand. These companies made decisions to intentionally understaff their operations in response to the pandemic and they have not yet restored their human capital to the levels needed for the holiday season. Frontline workers are being asked to do more and more work to cover for empty positions – this is putting them and our entire travel system at risk.

Assaults on workers and passenger misconduct is a major threat to transportation security and safety

Overwhelmingly, transportation workers believe that the number one security threat in our transportation system today is physical assault of safety sensitive personnel while in the performance of their duties. Transportation workers across every mode have faced an increased threat of assault over the previous year. Every day, workers in the transportation industry are victims of physical assault, verbal harassment, and violent intimidation at the hands of passengers.

Safety sensitive job functions are found in nearly all class and craft designations within the TWU membership. Flight attendants, Amtrak onboard service workers, and gate agents actively identify, report, and respond to security threats. Bus operators navigate large pieces of critical infrastructure equipment through crowded city streets. And transportation workers everywhere are tasked with implementing federal security protocols to keep our country safe. Risks to their lives and well-being seriously undermine all of our security.

In the aviation sector, the Federal Aviation Administration (FAA) has reported 5,114 unruly passenger instances, opened 973 investigations, and initiated 239 penalty enforcements so far this year.¹ The number of unruly passengers has increased by over 2,000 percent over previous years. In the period spanning from June 29 to November 2 of this year, the FAA reported over 14 unruly passenger instances per day.² For flight attendants, these unruly passenger confrontations have often been violent, dangerous, and a compromise to flight safety. On May 23, 2021, a Southwest Airlines flight attendant was assaulted resulting in serious bodily injury³. On September 22, 2021, a

¹ Data current as of 11/12/2021; https://www.faa.gov/data_research/passengers_cargo/unruly_passengers/

² Based on FAA data at https://www.faa.gov/data_research/passengers_cargo/unruly_passengers/

³ <https://www.cbs58.com/news/passenger-accused-of-punching-southwest-flight-attendant-faces-federal-charges>.

passenger attempted to storm the cockpit on a JetBlue flight from Boston to San Juan, kicking and choking the flight attendants in the process.⁴ On a recent Allegiant Airlines flight, it took five people, including three flight attendants, to restrain an irate passenger, one flight attendant had bruises on her ribs from being kicked while another was bit on the breast by the passenger.

Assaults on airline operation agents and passenger misconduct at airport gates have been steadily on the rise for years. In a 2019 Government Accountability Office (GAO) survey of customer service agents working in airports, almost all respondents reported experiencing verbal harassment such as passengers yelling, cursing, or being argumentative; almost half reported experiencing verbal threats; and, about 10% of those surveyed said that passengers had physically assaulted them over the previous year.⁵ Recent examples of Southwest Airlines operation agents, working airport boarding gates, confirm these trends: citing examples ranging from verbal threats, intimidation and name calling, to violent physical assaults involving pushing, thrown objects, and a recent hair pulling attack that resulted in the agent being pulled to the ground violently, injuring her cervical spine.

⁴ <https://abcnews.go.com/US/man-attempts-storm-cockpit-strangles-kicks-flight-attendant/story?id=80200869>

⁵ <https://www.gao.gov/assets/gao-19-683.pdf>

For our members in surface transportation, the situation is just as bleak. Assaults on transit operators have been vicious, violent, and worsening over the past year.

According to the Federal Transit Administration's (FTA) Acting Associate Administrator for Transit Safety and Oversight and Chief Safety Officer Gail Lyssy, "the rate of security events reported to the National Transit Database (NTD)⁶ increased 17 percent on average annually between 2012 and 2020. That number includes an increase in transit assaults, which have increased approximately fourfold since 2009."⁷

In New York City alone, nearly 2,000 assaults have been reported so far in 2021.⁸ These include Kumar Narinder, a 70 year-old station agent whose spine was fractured when a rider threw him onto the tracks.⁹ Matthew Ashby required stitches across his forehead after an assailant chased down his bus to hit him with a padlock.¹⁰ New York is not alone. A station agent in Philadelphia, where more than 1,400 assaults on transit

⁶ It is important to note that the NTD data significantly underestimates the number of assaults in our transit systems. Under the current definition of "assault" used by the NTD, a victim could have their nose broken, be hospitalized for 24 hours, and suffer first degree burns without triggering any reporting requirements. Additionally, transit agencies have been given flexibility to report their 2020 data late as part of the pandemic relief measures. Both of these issues have been corrected in the Infrastructure Investment and Jobs Act (H.R. 3684) recently passed by Congress; however, these changes will take several months to implement and will only apply prospectively.

⁷ <https://www.masstransitmag.com/safety-security/article/21242419/fta-continues-push-to-improve-transit-worker-safety>

⁸ <https://new.mta.info/safety-and-security/nyct-employee-assault-data>

⁹ <https://nypost.com/2020/12/29/70-year-old-subway-worker-was-pushed-onto-tracks-on-christmas-eve/>

¹⁰ <https://www.nydailynews.com/new-york/nyc-crime/ny-brooklyn-bus-driver-attacked-padlock-20200212-ok3m6admzjfrfbacwvinomm3xm-story.html>

workers have been recorded since 2015¹¹, was beaten by a group of people as he walked across the platform— an incident that was caught on security cameras.¹² In mid-October, Yeye Edner, a bus operator in Miami, was sent to the hospital after his bus broke down and he informed a passenger they couldn't continue their route.

Amtrak onboard service workers face the same increased threat as their airline and transit counterparts. Amtrak Police recorded 1,142 incidents of assault onboard Amtrak between October 1, 2018, and September 14, 2021. From 2019 to 2021, despite a more than 60 percent reduction in the number of Amtrak passengers, Amtrak employees experienced roughly a 25 percent increase in onboard assaults.¹³

A multitude of factors contribute to the rise in assaults on transportation workers

The rise of assaults on frontline workers across the transportation industry cannot be attribute to any single root cause. Many factors are combining to produce the “full moon atmosphere” that exists across our transportation system.

¹¹ <https://why.org/articles/septa-employees-endure-steady-threats-of-violence-even-as-transit-ridership-drops/>

¹² <https://www.youtube.com/watch?v=wSntu8ycjSA>

¹³ Amtrak Police Department data

Understaffing, particularly in aviation, has had a significant, negative impact on operations. Management decisions to encourage retirements and decrease or, in some cases, stop hiring while increasing published service schedules have made our transportation systems less resilient to changing but predictable circumstances such as bad weather, traffic, and flu season.

For example, passenger airlines collectively employ nearly 50,000 fewer workers today than before the start of the pandemic. Despite this, many airlines are still attempting to fly schedules similar to those they had in spring 2020. Southwest has 10% fewer workers today attempting to cover the same number of flights the airline flew in over the 2019 summer. American Airlines has 9% fewer workers.¹⁴ It is no surprise that storms, which happen every year, resulted in thousands of cancellations at both of these carriers.

The understaffing levels in the airline industry are a direct result of several airlines' failure to coordinate with their workforce to prepare for passengers' return coming out of the Covid-19 pandemic. Many airlines have published holiday flight schedules that are simply not possible given the current number of flight attendants, mechanics, ramp workers, pilot instructors, and dispatchers at the carrier. Passenger frustration and

¹⁴ Bureau of Transportation Statistics

anger, generated by management decisions to intentionally understaff their carrier, will be taken out on frontline workers.

Similarly, transit and rail service reductions can contribute to passenger frustration and anger. Reliability of bus, train, and light rail play a major role in passenger attitude when utilizing these modes of transportation. Wait times between bus and train service, or the elimination of routes altogether, can inconvenience and anger travelers. While this is no excuse for assaulting workers, it is another case of management decisions undermining the safety of the frontline workforce.

Most incidents of assault happen at flashpoints, moments when workers are obligated to announce safety protocols, operational rules, or travel norms that passengers do not want to follow. Airline gate agents experience many assaults after flight cancellation announcements or long delay postings. Bus drivers are often assault after disputes over the fare box. These flashpoints have long been a reality of travel, however the circumstances of the past year have seemingly elevated passenger reaction to otherwise ordinary safety compliance requests. The mask mandate, a recent safety requirement common to all transportation, has recently become a major flashpoint for some

passengers. More than 70% of unruly passenger incidents reported to the FAA this year have been related to the mask requirement.¹⁵

The lack of consequences for these attacks is also contributing to the increasing number of assaults. Assailants rarely face any enforcement action (including repeat offenders) and failure by companies and the federal government to publicize the limited responses they have taken is creating a perception that these attacks can go unpunished. The FAA and the Department of Justice (DOJ) recently announced that they are prosecuting less than 0.75 percent of reported incidents of unruly behavior onboard aircraft. Transit assailants are often paid by transit agencies to avoid “nuisance” lawsuits. Assailants at airports and rail stations have been allowed to walk away without even a police report because local officials refused to arrest individuals accused of federal crimes. Whatever the rhetoric may be, the practical reality is that passengers do not believe they will face any consequences for assaulting frontline workers. This atmosphere cannot continue.

A holistic approach is needed to combat unruly behavior and prevent assaults on transportation workers

Federal agencies, local governments, and employers must all take coordinated action now to reduce the threat of assault in our transportation systems.

¹⁵ https://www.faa.gov/data_research/passengers_cargo/unruly_passengers/

Transportation Security Administration

TSA would benefit greatly from additional authority to allow it to prevent known assailants from entering our transportation system. The TWU has endorsed legislation to this effect, and we hope the Committee will give this proposal swift consideration.

Passengers recently convicted of criminal charges for or assessed civil penalties related to misconduct in our air or rail systems should be statutorily barred from using these systems for a reasonable period of time. Just as many states may take away an aggressive driver's license to operate a personal vehicle, aggressive passengers should face the temporary loss of the privilege of using the commercial air or rail systems.

Such a "banned passengers list" would properly be housed with the TSA which already has processes in place for comparing passenger manifests to known security threats.

This approach would potentially allow the air and rail carriers' reservation systems to prevent a banned passenger from even purchasing a ticket so that known assailants would not enter the airport or rail station. We must avoid any approach that simply moves assailants out of the aircraft and train only to have them attack transportation security officers or ticket agents onsite.

This approach is showing results at Amtrak, where the company has instituted its own “prohibited passenger list” to prevent unruly passengers from riding the railroad.

Unlike in aviation (where airlines are legally barred from sharing information on passengers with each other), Amtrak’s prohibition effectively locks these individuals out of the system. The railroad should be applauded for taking this unilateral action to help protect their workers. TSA’s support and a statutory backing of this approach would help ensure that this tactic is successful and lasting.

Flight attendants, gate agents, and other essential personnel must be better trained to defend themselves from assault in the worst of circumstances. The current voluntary self-defense training offered by the TSA should be made mandatory for these workers and the program should be extended as a voluntary option for other airline workers who could face assault while on the job.

Additionally, the TSA is present at nearly every airport in the country. In many places, they are the only federal law enforcement presence available to airline workers. This unique position allows TSA to potentially bridge the gaps between jurisdictions to ensure assaults are correctly reported and that assailants are properly detained. The TWU encourages the Committee to direct the TSA, in coordination with the FAA, DOJ,

and local law enforcement, to facilitate the reporting of assaults in our transportation system and the apprehension of assailants.

Lastly, while the TSA is charged with the protection of our entire surface transportation infrastructure, its presence in our rail system is completely invisible. We have learned that visibility of law enforcement is one of the most effective tools to deter assault of transportation workers. While a TSA physical presence at rail stations would not need to be identical to its presence at airports, significant rail hubs such as Washington's Union Station would benefit from more access to the TSA.

Department of Justice

There is no question that assaults on our transportation workforce are criminal. The Federal Bureau of Investigations (FBI) and other arms of the DOJ must prioritize the prosecution of assailants to ensure these crimes are not allowed to become commonplace. While the DOJ has taken initial steps with the FAA to address this issue in the air, the number of announcement criminal charges (37) is woefully inadequate to the moment.¹⁶

¹⁶ The TWU joined with other airline unions and companies to call for stricter enforcement and more prosecutions of assailants

In 2017, the DOJ issued an interpretation that gate agents and other airline workers with security duties would be covered under 49 USC 46503 – the statute that considers assaults on these workers a federal offense. Regional offices, however, have ignored this policy and refused to prosecute these assaults even when they have been caught on video. Action is urgently needed from the Attorney General’s office to ensure that gate agents and others are fully covered by the protections already in law.

While the DOJ may not maintain the physical presence in airports that the TSA does, it is connected to every local law enforcement body in the country. In this capacity, the DOJ should establish clearer, easier pathways for local law enforcement to share and transition reports of assault to federal authorities for investigation. Bridging jurisdictional boundaries is a necessary step to reducing the number and severity of assaults.

Department of Transportation and employers

More must be done within the Department of Transportation (DOT) to address assault prevention across the entire transportation system. Law enforcement visibility and better preparedness (from both workers and employers) are strategies that have proven effective at reducing these assaults in all situations.

Seeing police on buses, trains, and at airports serves as a strong deterrent to assaults in these systems. Increasing police presence need not increase the number of police or the costs associated with policing. New York City, for instance, saw an immediate and dramatic decrease in assaults when they implemented TWU's proposal to redeploy law enforcement officers into the transit systems (rather than patrolling the perimeter for fare evaders)¹⁷. Placing Amtrak police onboard trains and airport police near gates would have a similar effect.

Preparedness requires both physical and human capital investments that acknowledge the risk workers face from assault. The FAA's Employee Assault Prevention and Response Plan (EAPRP) program is a good start to building these kinds of protections into employers' operational decisions. A similar approach is needed as part of Amtrak's newly mandated Critical Incident Response Plan (CIRP) program and the FTA's Public Transportation Agency Safety Plan (PTASP) program.¹⁸ These plans and requirements must include equipment changes, such as protective shields, as well as training and process changes, such as de-escalation training and more response reporting protocols.

¹⁷ <https://nypost.com/2021/06/22/soaring-nyc-subway-assault-rate-drops-after-mta-cop-push/>

¹⁸ It is important to note that the FTA has actively declined to take this approach in previous administrations. A 2015 Congressional Directive to initiate a rulemaking on this topic was brushed off by the FTA which claimed that its other, broader safety work covered the topic – a position that TWU and other transit unions strongly disagree with.

Finally, employers must be more realistic and caring about the reality transportation workers face on the job. Reporting assaults through company websites and processes should be streamlined to require the minimum amount of effort from the worker while providing the necessary amount of information to properly respond to these incidents. Victims of assault should be given adequate, paid recovery time in order to allow them to return to work healthy and focused.

Assault prevention needs to be addressed now

Legislators, federal agencies, and industry employers need to do more to mitigate passenger misconduct and assaults of workers in our transportation system. Legislative solutions aimed at removing abusive passengers from the pool of travelers is needed; enforcement of existing laws through prosecution and penalty assessment will send a clear and convincing message; industry employers need to support their employees when they are victims of assault and abuse. This holistic approach is needed to protect essential workers who kept us all moving during the worst of the public health crisis. These workers deserve better from their employers, from their government agencies, and their elected leaders.

Thank you again for the opportunity to testify today and I look forward to your questions.