



PROTECTING THE PUBLIC FROM TRANSPORTATION SECURITY RISKS

Over three years have passed since the horrific events of 9/11, yet amazingly too little has been done to secure our nation's transportation network from another terrorist attack. Sufficient resources have not been allocated, common-sense requirements have not been imposed, and too often employees and their unions have not been enlisted as true partners in the process. While we understand that our vast transportation network can never be made immune from attack, in many respects our government has abdicated its responsibility to protect the homeland from security threats. More can, and must, be done to secure targets and protect passengers, employees and communities.

Rail and Public Transit

America's transit and rail systems continue to face terrorist threats due to government inaction and neglect. The transit industry alone has identified \$5.2 billion it needs in federal security-related capital investment over the next three years and \$800 million annually for ongoing operating and maintenance expenditure – a total of \$7.6 billion over three years or about \$2.5 billion annually. By comparison, the President didn't allocate any serious resources for transit and rail security and Congress approved just \$150 million in security grants for FY 2005. This is supposed to cover security needs for intercity passenger rail, freight rail and transit. Put another way, over the past three years, the federal government's security assistance is 30 times less than the industry's currently projected three year need.

Amtrak requires \$110 million in one-time security upgrades, \$10 to 12 million annually for ongoing security costs and approximately \$650 million for its fire and life-safety program along the Northeast Corridor. The Bush Administration wants to zero-out Amtrak, submerge it into bankruptcy, and force states to pick up the tab – a scheme that would result in the destruction of our national passenger rail system and expose rail passengers, workers and the nation to untold security threats. Congress must reject this reckless proposal by the Administration.

Many of the rail and transit security vulnerabilities identified by transportation labor can be addressed with the allocation of modest resources yet are being resisted by corporate lobbyists. For example, comprehensive employee security training must be made mandatory. Front-line workers need to know how to identify a security risk, what to do in response to a range of possible situations, and be equipped to respond during security emergencies. While some in industry insist that training is being done, our members know that in the real world too many workers are not receiving any training or might be allowed to watch a one-size fits all video. Hands-on, mandatory instruction is needed and it is clear that the federal government will have to step in to ensure that the rhetoric from industry is consistent with reality and that the resources are committed to ensure a serious training regime is implemented.

Transportation Trades Department, AFL-CIO



We also need to make sure that employees who report or identify security risks do not face retribution or retaliation from their employers. This has been a major problem in the rail sector in relation to safety concerns, and with security, the risk of silencing workers is just too great. It is simply disingenuous to ask workers to report problems and be more vigilant – as our government leaders have demanded in a post 9/11 environment – but at the same time refuse to provide basic protections needed to ensure that such reporting does not cost them their jobs or result in any form of discrimination or retribution. But without strong whistleblower protections that is exactly the position we are putting workers in every day – it's not fair and more importantly it needlessly threatens security.

The use of unregulated remote control locomotives (RCLs) remains both a safety and security issue that needs to be resolved. We are pleased that last year Representative Gene Green introduced legislation (H.R. 5119) that would have prohibited the use of RCLs to move hazardous materials, and ensured that these devices are better secured and accounted for when not in use. The Green proposal is a common-sense precaution given the many problems inherent in RCL operations and should be included in any rail security legislation considered by Congress.

In general, we are increasingly concerned with the lack of security with respect to the transport of hazardous materials. Tank car integrity standards are critical and out-of- date equipment must be brought into compliance or retired. We also must do a better job of securing rail yards, tracks and other facilities that store or transport dangerous substances. While not the work of terrorists, the tragic accident in South Carolina was a stark reminder of the consequences of a hazardous materials release. Nine people died, 318 needed medical attention and 5,400 residents within a one-mile radius of the crash site were forced to evacuate. According to the Naval Research Lab, a similar incident in a major urban metropolitan area would have resulted in 100,000 deaths. Simply put, we must do a better job of securing the transport and storage of hazardous materials.

Intercity Bus Security

More must also be done to enhance the security of our intercity bus network – a key component of our intermodal transportation system that serves almost 800 million passengers each year and in many communities serves as a crucial economic and transport link. To help address the security needs of intercity buses, transportation labor supports the establishment of a grant program included in legislation (H.R. 5082) that passed the House Transportation and Infrastructure Committee last fall. In particular, the bill authorized \$150 million over three years for the modification of terminals, the protection or isolation of drivers, employee training, passenger and baggage screening and the hiring of additional security personnel. Transportation labor supports this type and level of assistance and will push for this program in the 109th Congress.

Cross-Border Transportation

We must also ensure that Mexico-domiciled trucks entering this country meet the same level of security and safety as U.S. operators. Despite claims to the contrary, we know that the resources, procedures and standards still do not exist to ensure these vehicles entering our Southern border

do not pose a security risk to the U.S. In fact, the Inspector General (IG) of the Department of Transportation released an audit of the status of cross-border issues last month and confirmed that Mexico-domiciled motor carriers and their drivers do not yet meet U.S. standards and no plan is in place to review compliance on-site in Mexico as required by the Shelby-Murray cross-border requirements enacted in 2002. In addition, the IG noted that since U.S. drivers transporting hazmat are subject to extensive background checks, Mexican hazmat drivers must also meet this requirement if they wish to operate in the U.S. Transportation labor will continue to push for true security compliance by any operator wishing to engage in cross-border commercial transportation.

Port and Maritime Security

Last year, the TTD Executive Committee warned that our nation's seaports were "extremely vulnerable to terrorist attack" and that terminal operators were ill prepared to abide by the security regulations issued pursuant to the Maritime Transportation Security Act (MTSA) of 2002. Almost a year has passed since transportation unions called for action and unfortunately little has changed.

The MTSA security regulations were generally well crafted and detailed specific security procedures to be followed by July 1, 2004. But like any regulations, they are not effective if not followed or enforced – which is exactly what is happening at too many ports. Training and evacuation requirements are ignored, seals on containers are not sufficiently checked and vehicle screening is too often left to chance. While not required by the Coast Guard regulations, empty containers should also be checked as they provide an easy opportunity to house dangerous devices.

Like our nation's rail system, maritime commerce utilizes vast infrastructure to transport huge volumes of cargo. Our nation has more than 300 sea and river ports with more than 3,700 cargo and passenger terminals. The top 50 ports in the U.S. account for about 90 percent of all cargo tonnage and the top 25 ports account for 98 percent of all container shipments.

The Coast Guard estimates the cost of implementing the MTSA regulations and new international security standards to be around \$1.5 billion in the first year and \$7.3 billion over the next 10 years. Through FY 2005 ports have been provided just \$650 million for physical and operational security upgrades. Advanced technology, additional personnel, better surveillance and access control procedures, and full compliance with MTSA regulations are putting a strain on local port budgets. Congress and the Administration must stop short-changing this critical need and make a real investment in the security of our ports.

Targeted Infrastructure Protection Grants

As part of the FY 2006 Budget, the Administration proposed a new multi-modal grant program – the Targeted Infrastructure Protection – to be funded at \$600 million. As an initial matter, we would note that this funding level is grossly insufficient to meet the critical security needs of even one area of transportation. At a more fundamental level, we question the wisdom of lumping all grant programs into one pot and forcing modes to compete against one another for

resources that are inadequate to begin with. Each mode of transportation has unique security needs and faces different challenges. An effective grant program recognizes these differences and should account for them, but the new program offered by the Administration would take us in the opposite direction. Instead of relying on funding gimmicks and creating clever new programs, the Administration must find the will to provide the necessary resources and policy directives critical to securing our transportation system.

Aviation

From a security perspective, there is little question that aviation has received the bulk of attention and resources since 9/11 and progress has been made in securing this mode of transportation. But work remains and loopholes have been allowed to exist.

Our nation's flight attendants are not receiving meaningful security training as the Bush Administration has failed to develop training requirements that have been mandated by Congress on three separate occasions. The fact is that flight attendants are no better prepared today on how to react to a terrorist attack onboard an aircraft than they were on 9/11. This foot-dragging must end.

Communication systems that allow flight attendants to communicate with the flight deck, air marshals on board and the ground are also critical. Such a system would allow flight attendants to quickly report developing security threats in the cabin. In addition, such a system would ensure flight attendants are alerted about impending turbulence thus reducing injuries among employees and passengers.

We must also close the loophole that allows foreign aircraft repair stations to be certified to work on U.S. aircraft without meeting the same standards as those required by domestic stations and workers. In fact, the Transportation Security Administration (TSA) is now almost seven months late issuing congressionally mandated security regulations to govern contract repair stations. Congress also required the TSA to audit foreign stations for security, but these reviews will not begin until regulations are issued. The delay in implementing these requirements is indefensible and is indicative of the laissez-faire attitude this Administration has regarding the security of contract repair stations. While foreign repair contract stations have long posed a threat to safety, the volume of work shipped overseas has dramatically increased since a non-AFL-CIO union gave Northwest Airlines expanded rights to outsource maintenance work to the lowest-bidder. Encouraged by the concessions at Northwest, other airlines have pushed more work to foreign stations posing a security risk that the government must address. TTD will once again bring this issue to Congress and demand that foreign and domestic stations be held to a uniform level of security and safety, as Congress mandated in 2003.

TTD has long argued that cargo airlines are exempted from security requirements placing pilots and the entire system at risk. We are pleased that TSA is moving forward with regulations that will help close many of these double-standards including a requirement that cargo airlines adopt a comprehensive security program. We are concerned, however, that some in industry may once again try to weaken standards or seek special interest exemptions from Congress. We will

strongly oppose these attempts and work to ensure one level of security with respect to passenger and cargo carriers is finally achieved and maintained.

Background Checks

Since 9/11, Congress and the Administration have focused considerable attention on imposing various forms of background checks on transportation workers and planning for a universal Transportation Worker Identification Card (TWIC). No one wants to secure our transportation system more than front-line workers, but overly intrusive or unworkable background check procedures must be rejected. Any background check regime must provide workers with basic due process rights, ensure privacy protections, and focus on rooting-out true security risks and not unjustly punishing an employee twice for bad decisions made years ago.

Unfortunately, the background check process recently finalized by the TSA for Hazmat CDL drivers, pursuant to the USA Patriot Act, does not in many regards meet the fairness standards sought by transportation labor. We do, however, appreciate the inclusion of privacy rights for workers and a rejection of an industry request to receive the raw background data on employees. In addition, the rule does contain a “waiver” process, first included in the MTSA, and permits workers who have committed a disqualifying offense to demonstrate they do not pose a security risk. We remain concerned, however, that TSA, and not an independent person, such as an Administrative Law Judge (ALJ), is charged with reviewing waiver decisions. ALJs should also hear appeals on subjective decisions by TSA that someone is a security risk. We also are troubled that the list and descriptions of disqualifying offenses remains overly broad and are not adequately focused on eliminating security risks. In addition, the rule would exclude someone who is simply wanted or under indictment for a crime.

On the aviation side, workers do not even have a right to seek a waiver, as they do under the MTSA and the Hazmat CDL rule, and privacy issues remain a concern. Transportation labor will continue to work to resolve these discrepancies both at the regulatory level and in Congress.

Finally, workers who must work in U.S. Customs controlled areas in facilities are subject to separate background checks that give individual port directors great leeway in making these decisions. In particular, a port director can use a felony conviction to disqualify someone even if that felony was committed well beyond the seven or 10-year look-back period that is the norm under MTSA and the aviation statute, respectively. In fact, there have been several situations where an airport worker, after passing an extensive background check required by the aviation statute, had his or her customs credential pulled because of a much older conviction. This double standard makes no sense and has absolutely no security-based rationale. TTD will work to resolve this discrepancy and try to bring some fairness and due process protections to these workers.

Further Delay Not an Option

The vulnerabilities in our transportation system are unfortunately not hard to identify. Freight systems are too open, are poorly regulated and need government assistance. Public transportation and Amtrak is badly under-funded as it grapples with massive security costs.

Globalization is further threatening transportation security – whether from un-inspected trucks crossing our border or from U.S. aircraft being repaired overseas where uniform security standards are non-existent. And workers are simply not being trained to perform security duties required by being the “eyes and the ears” of the industry. Further delay in addressing the many security vulnerabilities in our transportation system is not an option. Transportation labor will renew efforts to address these problems and to translate some of the talk in Washington into real action on transportation security.

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