



Amalgamated Transit Union

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Office of the International President

January 26, 2023

The Honorable Pete Buttigieg, Secretary
U.S. Department of Transportation
West Building, 1200 New Jersey Avenue, SE, 9th Floor
Washington, D.C. 20590

RE: FTA Special Directives on Transit Worker Assault

Dear Secretary Buttigieg:

I am writing to urge DOT to respond immediately to the nationwide transit worker assault crisis by directing the Federal Transit Administration (FTA) to issue a nationwide “Special Directive” requiring all grantees to begin immediately the process of installing quality barriers on all revenue vehicles to protect transit bus operators from continual vicious attacks. In addition, FTA should issue separate Special Directives to each transit system that has failed to comply with the requirement to form a labor-management safety committee and update its Public Transportation Agency Safety Plan (PTASP) in accordance with the bipartisan infrastructure bill. A list of such systems is enclosed with this letter.

ATU appreciates FTA’s October 4, 2022 Special Directives on Required Actions Regarding Transit Worker Assault (Special Directives 22-14 to 22-22), which called on nine transit systems to collect information on whether and how they have assessed, mitigated, and monitored transit worker assault safety risks. We hope FTA will learn valuable information from the agency responses and take appropriate action. **However, if this exercise results in anything less than a nationwide requirement to retrofit existing vehicles with strong barriers and minimum vehicle safety standards on bus operator workstations for all new buses, the Special Directive will fall short of President Biden’s promise made to our members on multiple occasions, and lives will continue to be lost.**

Nationwide Problem

Enclosed, please find a summary of transit worker attacks that have been reported in the press in recent years. Just days after I became ATU International President in 2019, I attended a funeral for Thomas Dunn, a bus operator in Tampa, FL who had his throat slashed by a passenger while driving down the road. Thomas, who had a wife and young children, died just after pulling the vehicle over, saving the lives of his passengers. Just months before the tragedy, Dunn spoke up at a Hillsborough County Transit public hearing, pleading for protection for drivers.

Please take a close look at the enclosed list of incidents. We have had members shot, stabbed, and struck with canes, fire extinguishers, screwdrivers, hammers, and garbage cans. They have been sprayed with mace and pepper spray, burned with hot coffee, and doused in urine and spit. We have had senior citizens robbed for pocket change and women sexually assaulted. This constitutes a regular day on the job in the transit industry.

Please note that the list includes only those incidents reported in the press. The actual number of events is astronomical. Our members will tell you that the attacks take place every day, all day long. More importantly, these horrific incidents are happening everywhere – from New York to California and everywhere in between. Late last year, a bus driver in Utah nearly lost his eye in a brutal attack, and we have had several attacks in the Midwest. Tragically, a driver in Charlotte, NC was shot and killed in February last year. The list includes incidents from Georgia, Vermont, Oklahoma, and Wisconsin. This is not a big city, violence-prone neighborhood problem. Instead, it is an epidemic, like Covid-19, that stretches across the entire nation.

Why are Bus Drivers Treated Differently than Transit Passengers and Airline Pilots?

Respectfully, except for the October Special Directive issued to just nine agencies, FTA's interest in issuing safety directives has been limited to passenger injuries only. For example, last year in Boston, FTA only stepped in at the Massachusetts Bay Transportation Authority (MBTA) after a series of derailments and deadly incidents, ranging from a college professor's fall through a rusted staircase at the JFK-UMass station to the April dragging death of a man at the Broadway Station along the Red Line. In Washington, D.C., FTA took control of safety matters at the Washington Metropolitan Area Transit Authority (WMATA) only after the 2009 train crash near the Fort Totten station that killed nine people and a smoke incident that killed a passenger. While the agency was right to take action on these obvious threats to passenger safety, why don't the deaths and serious injuries of hundreds of transit workers also trigger Special Directives? Why are workers treated differently?

Of course, when bus operators are attacked while their vehicles are in motion, passenger safety is also jeopardized. Notably, sixteen passengers were injured after a man attacked a bus driver in Brockton, MA last year. The driver blacked out and crashed into a car and a telephone pole. Our buses are also often hijacked, sometimes by joyriders and other times by people demanding cash. It is like the wild west in our industry.

While FTA's sister agency, the FAA, is finalizing requirements for **secondary** barriers on flight decks to protect pilots, FTA does not even require primary barriers for transit buses, which are of course paid for with **80% federal funds**. DOT is financing and putting massive mobile manslaughter machines into revenue service all across the nation, and our members, who are sitting ducks in open space, are paying the price.

Secure Workstations are the Only Solution

Past efforts to stop the attacks on transit workers have unfortunately failed. ATU has been successful in lobbying for legislation in more than thirty states that increases penalties for assaulting transit workers in the line of duty and bills requiring transit agencies to post signs

warning passengers about the consequences. Cameras have been mounted in vehicles. Likewise, while the de-escalation techniques in which bus operators are trained are fine and useful, they do not prevent attacks. Some systems have banned passengers from riding if they attack a driver – but again, these are actions that take place after the attack. Law enforcement has been ramped up on some systems at times. None of it has proven to be a deterrent.

The Transit Cooperative Research Program (TCRP) and many others have studied the transit worker assault issue extensively. Further, ATU has participated in labor-management summits on the subject at the federal and local levels. All of these well-meaning attempts have made it clear that the only way to prevent attacks on the bus is to surround the operator in a workstation that includes physical barriers capable of preventing the entry of unauthorized persons. Otherwise, the attacks will persist, and our members will continue to be seriously injured and killed.

Countless general managers have said in the press that “nothing is more important than the safety of our operators.” Unfortunately, nothing ever changes. We cannot and should not have to deal with this anymore. Is it any wonder why the industry is suffering from staff shortages everywhere? Why would anyone get behind the wheel of a bus when there is a good chance that they will not come home in one piece?

Promises

In May of 2019, responding to 2015 FAST Act rulemaking requirements, President Trump’s DOT published a one-paragraph disgraceful and heartless statement in the Federal Register, saying that it was “not necessary” to take action to address transit worker assaults. We know that DOT under the Biden Administration is quite different – this is the most pro-labor administration in U.S. history.

During the campaign, then-Vice President Biden spoke to our members on two occasions directly on this topic:

“As President, I *promise* you I’ll fight to get passed the *Transit Worker and Pedestrian Protection Act*, **to get barriers installed**, to stop that kind of assault...”¹

“*I remember about two years ago I was working with you guys making sure you were protected from violence on your buses. Just someone getting on the bus and going after you. And the idea that that wasn’t even done. I mean, my Lord, we need much more support for transit workers, because you are the reason why things continue to function. Period. I promise you I’m going to keep banging away at this. Keep hollering every single day about it. And if I’m President, I guarantee you that will be available. We shouldn’t have to wait that long though. It should be tomorrow.*”²

¹ Amalgamated Transit Union Town Hall with Vice President Joe Biden. Conversation with John A. Costa, International President, ATU. October 3, 2020. <https://www.youtube.com/watch?v=RD3Ldw6ab8M>

² Biden for President, Virtual Town Hall with Front Line Workers. Conversation with Jerry Brown, Member of ATU Local 836, Grand Rapids, MI. April 15, 2020. <https://www.youtube.com/watch?v=RD3Ldw6ab8M>

Mr. Secretary, it is time for DOT to carry out the President's commitments before anyone else gets killed or seriously injured.

Managers Pushing Back on Transit Labor-Management Safety Committees

We are working toward long-term change in the industry, and the new labor-management safety committees required under the *Infrastructure Investment and Jobs Act* (IIJA) provide a path forward to achieve important safety goals. Unfortunately, transit management is pushing back hard against Labor and against the requirements of the law themselves.

More than one-third of our bargaining units report that management has not established a joint safety committee, despite the FTA deadline of July 31, 2022. In nearly half of these cases, management is delaying and taking too long to establish the committee. In more than thirty percent of transit systems without committees, the union has met with management to establish a committee, but that work is not complete. Remarkably, we still have transit agencies falsely claiming that they are not covered by IIJA, managers attempting to appoint union-side committee members, and claims from management that pre-existing joint committees are IIJA-compliant despite the clear absence of basic statutorily mandated features, including equal representation from frontline workers and management.

Further, dozens of transit systems employing the members of ATU-represented bargaining units have ignored the December 31, 2022, deadline to update their PTASPs with the approval of their joint safety committees. Although we have informed FTA about the agencies that are out of compliance with the law, ATU was denied a list of agencies that are subject to triennial review in 2023. We therefore have no idea which agencies are being investigated, if any at all. Moreover, does it make sense for agencies that are not up for review until 2025 to be allowed to continue to violate the law and put workers and passengers at risk for the next two years?

ATU is therefore calling on FTA to:

- 1) Issue a nationwide Special Directive immediately to all grantees to install quality barriers to protect transit bus operators from continual, vicious attacks.** At a minimum, all vehicles currently in revenue service should be retrofitted with protective barriers capable of keeping unauthorized persons out of the driver's workstation. Funding for such capital projects is already set aside under 49 U.S.C. §5329, which requires recipients to allocate not less than 0.75 percent of Formula funds to safety-related projects.

According to FTA's website, citing the PTASP regulation under 49 C.F.R. Part 673, FTA may issue special directives to recipients of FTA funding when it:

- “determines that an unsafe condition or practice, or a combination of unsafe conditions and practices, exists such that there is a substantial risk of death or personal injury, or damage to property or equipment; or
- determines that the public interest requires the avoidance or mitigation of a hazard or risk through immediate compliance.”

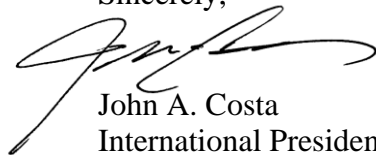
FTA would be entirely justified in making these findings regarding the urgent matter of transit worker assaults.

- 2) **Issue a rulemaking to satisfy the long overdue 2015 FAST Act requirements,³ mandating minimum vehicle safety standards, and calling for all new buses to enclose operators entirely in a safe workstation.** There is no justification for continued delay, and transit workers can wait no longer for these protections.

- 3) **Issue separate Special Directives to all transit systems that have failed to comply with the requirement to form a labor-management safety committee and update their PTASP with safety committee approval, in accordance with the bipartisan infrastructure bill.** FTA has the authority to issue such Special Directives when it “believes that a recipient is engaging in conduct, or there is evidence of a pattern or practice of a recipient’s conduct, in violation of the Public Transportation Safety Program or any regulation or directive issued under those laws for which the Administrator exercises enforcement authority for safety.” Noncompliance with the IIA safety committee and PTASP requirements constitutes such a violation, and a Special Directive is therefore justified.

Thank you for your immediate consideration. I would welcome the opportunity to meet with you to discuss these life or death issues at your earliest convenience.

Sincerely,



John A. Costa
International President

- c: The Honorable Nuria Fernandez, Administrator, FTA
The Honorable Sherrod Brown, Chairman, U.S. Senate Committee on Banking, Housing, and Urban Affairs
The Honorable Rick Larsen, Ranking Member, U.S. House Committee on Transportation and Infrastructure
The Honorable Chris Van Hollen, chief U.S. Senate sponsor, *Transit Worker and Pedestrian Protection Act*
The Honorable Grace Napolitano, chief U.S. House sponsor, *Transit Worker and Pedestrian Protection Act*

³ PL 114-94 §3020 and §3022 (Dec. 4, 2015)