



**STATEMENT OF  
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**BEFORE THE  
SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION  
ON  
DOMESTIC PASSENGER AND FREIGHT RAIL SECURITY**

**October 20, 2005**

Chairman Stevens, Co-Chairman Inouye, and members of the Committee, on behalf of the 29 affiliated unions of the Transportation Trades Department, AFL-CIO (TTD), I want to thank you for giving transportation labor an opportunity to testify today on our priorities and strategies for enhancing rail security.<sup>1</sup>

This hearing occurs at an auspicious time. Having just observed the fourth anniversary of the September 11, 2001, terrorist attacks on America, we are reminded again that rail security measures – both in the transport of passengers and freight – have been sorely lacking. The brutal attacks in the passenger rail systems of London and Madrid served as the most recent wake-up call, but in reality we have long known that rail transportation is a tempting target for those that wish this nation harm. Unfortunately, beyond vague warnings by the Administration, and promises of action by the rail industry, little has actually been done. Vulnerable rail targets have not been hardened, access control at key facilities is lacking, security training is basically non-existent, workers are still being discouraged from reporting safety and security concerns, and federal funding has not kept up with the immediate security needs of this vital sector of our transportation system.

Last month, the new head of the Transportation Security Administration told a Senate committee that the state of transit security was, and I quote, “outstanding.” Echoing this assessment, I am sure that freight rail industry representatives will trot out fancy reports and charts supporting their claims that much has been done to secure our rail transportation system. We will hear about “action teams,” task forces, “countermeasures,” daily security briefings, worker training and a whole host of wonderful initiatives. And we will hear about the industry’s partnering activities with others in private sector and government. Unfortunately, I must sadly report that workers and their unions have been left in the dark about these activities and the railroads have not enlisted their employees as partners in this endeavor. In fact, the workers I have spoken to

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<sup>1</sup>Attached at 1 is a complete list of TTD’s affiliated unions.

inform me that they feel no safer or more prepared than they were before the September 11 attacks. This situation has gone on for too long and is simply unacceptable. We need to get serious about rail security and we need leadership from Congress to address the critical areas of concern that workers and other stakeholders have so readily identified.

On this point, I want to thank you Chairman Stevens, Senator Inouye, the Co-Chairman of the Committee, and the other Senators who have joined with you in introducing the Transportation Security Improvements Act of 2005 ( S. 1052). While there are some changes we would like to see to this bill, the product you have offered is comprehensive and would address a number of security vulnerabilities across the various modes of transportation, including of course the rail sector.

When you remember the size and scope of our rail system and infrastructure, the lack of attention and focus on security is hard to understand or accept.<sup>2</sup> In addition, we must recognize that given the open nature of our rail transportation network, we are never going to be able to secure it entirely, since, unlike aviation, it simply is not housed in a relatively closed or contained infrastructure. Indeed, inter-city and commuter rail is designed to be accessible and at least part of its appeal is this relative ease of use.

Given these facts, it is absolutely imperative that we take the steps that can be implemented and that are compatible with a system that is so critical to our national economy. I will concede that we can't build a fence around every train track in America. But we can train workers and leverage technology to better monitor and control this vast infrastructure. We may not be able to screen every passenger at every station, but there is simply no reason, not one, that workers should be discouraged, or discriminated against, for speaking out on security.

### **Treating Employees as Partners**

We need to start treating front-line employees as true partners in the effort to protect our rail system. These workers greet passengers, sell tickets, operate and staff the trains, maintain and inspect track and equipment, dispatch trains and fix cars. In short, they are in an excellent position to spot security risks and terrorist threats. And in the event that an attack does occur, our members will be on the scene and the first to respond along with firefighters and police.

### **Security Training**

Let me be extremely clear about this point – despite the claims of some in industry, workers are not receiving meaningful security training. Our members at one freight carrier have told us that at best they get a 14 minute video – maybe once a year, but maybe not. And one local leader

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<sup>2</sup> There are over 100,000 miles of rail in the U.S. – 22,000 of miles of it used by Amtrak in 46 states and the District of Columbia. In 2004, Amtrak served 25 million passengers, or approximately 68,000 a day. Commuter rail operations add approximately 978,000 passenger trips each weekday. The freight rail carriers carry 42 percent of our nation's domestic intercity freight and in 2002 alone over 109 million tons of hazardous material.

reported that new hires don't even get to see the movie. Mr. Chairman, I have seen this so-called training video and there's only one problem – it does virtually nothing to prepare a worker on how to address security problems. It offers vague and often conflicting guidance. My personal favorite is when it instructs workers, in dealing with a person on the property who is not supposed to be there, to not overreact, but also not to under-react. What does that mean? Workers still do not know what constitutes a security risk, though they are told to be “vigilant.” They do not know how to respond when they do see someone or something suspicious and they certainly don't know what to do if something actually happens. I realize that my comments conflict with those of Mr. Hamberger. But I am offering my observation to this Committee based upon personal assessments by rank-and-file workers and local leaders who understand their railroad property and its vulnerabilities and know first-hand how little is being done to deal with security risks.

It is well known that real training is effective. We know this from positive experiences in the safety arena and experts confirm that it is even more crucial in security. Rafi Ron, former Director of Security at Tel-Aviv Ben-Gurion International Airport told a Senate Committee last month that behavior pattern “techniques implemented by trained security and non-security personnel have proven to be a valuable measure in the detection and prevention of terrorist attacks in public facilities.” Ron went on to observe “training provides the skills and confidence not only to law enforcement officers ... but also to employees who are present at every point in the system. No one is in a better position to recognize irregularities on the ground than the people who regularly work there.”

The Volpe Center recently concluded that “probably the most significant factor in determining whether a transportation employee makes a helpful or harmful decision during an emergency is training. Trained and alert transportation professionals can make the difference between success and disaster. Characteristics such as acting responsibly to protect the lives of the public; keeping one's cool and keeping passengers calm; contacting emergency assistance authorities quickly and reporting the essential details accurately; working cooperatively as a member (and sometimes a leader) of a team with a common goal – can all be enhanced through proper training.”

These observations and conclusions are not surprising – it is quite frankly common sense that a robust and consistent training regime is a cost effective way to enhance rail security. Unfortunately, employers, under profit and operational pressures, too often short-change this critical security component. We have come to the conclusion that the only way workers are going to get the security training they need is for the federal government to come in and tell the carriers that they must offer this training because it is too important to ignore. It is not enough for the railroads to pay experts to develop nice reports unless the materials developed are delivered to the employees in the form of a comprehensive, mandatory training program. That is not happening today and we believe this is a disgrace.

On this point, I want to commend Chairman Stevens and Senator Inouye for including a provision (Section 310) in S. 1052 that would accomplish this objective. Specifically, Section 310 would require DHS, within 60 days of enactment, to develop and issue detailed guidance for a rail worker security training program. The guidance issued by DHS will require a training

program that would encompass a number of appropriate elements including crew communications and coordination activities; evacuation procedures; use of protective devices; live situational training exercises and ways to determine the seriousness of any situation. Sixty days after DHS issues these guidelines, each rail carrier is required to develop a training program and submit it to DHS for review and approval. DHS may also require the rail carrier to make revisions to the training program that the Secretary considers necessary to ensure that the program meets the guidance requirements. The carrier will then have 180 days to complete the training of all front-line workers in accordance with the DHS approved program.

I have little doubt that some in industry will complain that this program is too burdensome and that they should be allowed to institute training on their schedule. I am also sure that some rail carriers will claim that since training is already being done, that this Committee should simply stand down and allow industry to proceed on its own. We hope you will reject those pleas for more inaction. As I have stated, we have talked to too many front-line workers who dispute the industry's claims to allow this fiction to perpetuate any longer. Comprehensive security training must be mandated, and it must be instituted as soon as possible. I applaud you Mr. Chairman and Senator Inouye for recognizing this fact and I urge the Committee to retain this provision as your bill moves through the legislative process.

### **Providing Whistleblower Protections**

We must also ensure that workers who report or identify a security risk will not face retribution or retaliation from their employers. Simply put, a rail worker should not have to choose between doing the right thing on security and his or her job. Unfortunately, too often this is exactly what occurs.

Rail workers and their unions have long argued that despite the whistle-blower protections included in current law (49 U.S.C. § 20109), employees still experience employer harassment and intimidation when reporting accidents, injuries and other safety concerns. Indeed, in a Federal Railroad Administration (FRA) report issued in July 2002 entitled *An Examination of Railroad Yard Workers Safety* (RR02-01), the FRA conducted focus group interviews with certain groups of rail workers. The FRA stated, "Perhaps of most significance, rail labor painted a generally adversarial picture of the safety climate in the rail industry. They felt that harassment and intimidation were commonplace, and were used to pressure employees to not report an injury, to cut corners and to work faster."

Section 311 of S. 1052 does attempt to address this problem by providing certain whistleblower protections for workers who report security concerns. While this provision is a step in the right direction, and I want to thank Senator Lautenberg for working with us on this issue, it needs to be strengthened to provide workers with a fair and expedited process to seek redress in whistleblower situations. In addition, if we are ever going to stop discrimination against workers who report security problems, penalties and fines must be increased to create a real deterrent and not just make violations a cost of doing business.

I should note that as part of the Sarbanes-Oxley Act, Congress, on a bi-partisan basis, included whistle-blower protections for those who report shareholder fraud violations or of violations Securities and Exchange Commission rules. (*See*, 17 U.S.C. 1514A). Surely, if we can protect whistleblowers who report financial security problems, we can also protect those who report rail security concerns.

Everyday, rail carriers and the government ask front-line workers to be more vigilant about security risks and to report possible breaches. With the right training, rail workers are more than happy to play this role. But it is disingenuous to ask workers to report problems and at the same time refuse to provide the basic protections needed to ensure that such reporting will not result in employer retribution.

### **Securing Rail Facilities**

Our members are also increasingly concerned that rail yards and facilities are largely open areas where people can come and go virtually unchallenged. In general, we need to ensure some type of security perimeter around yards and other sensitive facilities and better access control. Indeed, I would note that shortly after the Madrid attacks Amtrak issued a security notice reminding employees to wear their identification badges despite the fact that, according to reports from workers we have received, many employees have still not actually received their credentials. This of course raises the question of how access control is being achieved in those situations.

On a related issue, we need procedures and technology in place to better monitor and protect tracks, signals and switches. Given the amount of hazardous material that is moved by our rail system, it does not take a lot of imagination to see how a terrorist could sabotage key points in our infrastructure to create a deadly accident. Signal systems and track switches are too easy to manipulate and access to these systems must be better controlled.

When problems are spotted, our members are told to contact appropriate security personnel. The problem (besides the fact that there is no training or set procedures on who to contact) is that in many instances, especially in rural areas, security guards are often not on the property and many miles away. In fact, one rail worker stationed out West recently told me that the carrier had one security person to contact during emergencies covering a 1,000 mile territory. And yet we can't seem to convince our employers that front-line workers need training on what to do when there is a security threat and security personnel are not available to immediately respond.

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 either be brought into compliance or retired. While not the work of terrorists, the tragic accident in Graniteville, South Carolina, where nine people died, 310 required medical attention and 5,400 residents were forced to evacuate, was a stark reminder of the consequences of a hazardous material release. And just last Saturday, two Union Pacific trains collided in Texarkana, Arkansas, releasing propylene and leading to a massive fire and explosion. Simply

put, rail transportation is a dangerous business on a normal day. In the post-9/11 environment the challenge of protecting the nation from terrorist threats directed at rail transportation multiplies.

### **Amtrak Security**

Let me say a word about rail security as it relates specifically to Amtrak. It is no secret that every year Congress provides Amtrak just enough funding to limp through another fiscal crisis. In this environment, it is impossible for our nation's national passenger carrier to invest the capitol resources needed to make major improvements to rail security. This starvation diet that we have put Amtrak on must end; not only because it represents bad transportation policy, but because it creates security issues and problems that are unacceptable. Again, on this point, let me note the leadership of Chairman Stevens, Chairman Lott, Senator Lautenberg and others who have pushed this Committee to approve a multi-year reauthorization bill and have led the fight in the annual appropriations process that is still ongoing as we speak.

Clearly, Amtrak needs stable, long-term resources to shore up its financial challenges. But in the context of security, we cannot expect Amtrak to fend for itself while we spend billions addressing so many other aspects of homeland security and the war on terrorism. We have always believed that transportation security is an integral element of our homeland security efforts and publicly supported transportation systems like Amtrak deserve adequate federal resources to protect their passengers, workers and the public from terrorist threats.

There has also been a lot of talk, both from Amtrak and the Administration, about the need to contract-out as many Amtrak services as possible and to privatize parts or all of the system. Again, we have serious transportation policy reasons why these proposals should not be adopted and I will not expand on them at this hearing. But let me also point out that in-house employees are known quantities that in many cases have security responsibilities they must perform. If these functions are contracted-out, as they already are in some areas, it calls into question how these functions will be handled and makes it that much more difficult to reliably control access to train operations.

### **Final Thoughts**

Achieving rail security is of course not a simple task. But we cannot allow this challenge to go unmet any longer. Four years after 9/11 and in the wake of deadly attacks in London and Madrid, our government and rail employers are still not doing enough to make rail transportation as secure as possible. Rail security needs and deserves attention and focus from policy makers. Carriers must be required to follow security procedures, employees must be trained and afforded whistle-blower protections, and rail yards, facilities, tracks, equipment and signal system must be secured. All of transportation labor has a vested interest in improving rail security and Mr. Chairman and Co-Chairman Inouye, TTD stands ready to work with you to achieve this common agenda.

Thank you again for giving TTD an opportunity to share our views today.

# ***TTD AFFILIATES***

*The following labor organizations are members of and represented by the TTD:*

*Air Line Pilots Association (ALPA)*  
*Amalgamated Transit Union (ATU)*  
*American Federation of State, County and Municipal Employees (AFSCME)*  
*American Federation of Teachers (AFT)*  
*Association of Flight Attendants-CWA (AFA-CWA)*  
*American Train Dispatchers Association (ATDA)*  
*Brotherhood of Railroad Signalmen (BRS)*  
*Communications Workers of America (CWA)*  
*International Association of Fire Fighters (IAFF)*  
*International Association of Machinists and Aerospace Workers (IAM)*  
*International Brotherhood of Boilermakers, Blacksmiths, Forgers and Helpers (IBB)*  
*International Brotherhood of Electrical Workers (IBEW)*  
*International Federation of Professional and Technical Engineers (IFPTE)*  
*International Longshoremen's Association (ILA)*  
*International Longshore and Warehouse Union (ILWU)*  
*International Organization of Masters, Mates & Pilots, ILA (MM&P)*  
*International Union of Operating Engineers (IUOE)*  
*Laborers' International Union of North America (LIUNA)*  
*Marine Engineers' Beneficial Association (MEBA)*  
*National Air Traffic Controllers Association (NATCA)*  
*National Association of Letter Carriers (NALC)*  
*National Federation of Public and Private Employees (NFOPAPE)*  
*Office and Professional Employees International Union (OPEIU)*  
*Professional Airways Systems Specialists (PASS)*  
*Sheet Metal Workers International Association (SMWIA)*  
*Transportation · Communications International Union (TCU)*  
*Transport Workers Union of America (TWU)*  
*United Mine Workers of America (UMWA)*  
*United Steel, Paper and Forestry, Rubber, Manufacturing, Energy,  
Allied Industrial and Service Workers International Union (USW)*

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