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Committee on Commerce, Science, and Transportation**

Hearing on:

Oversight of the U.S. Airline Industry

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Testimony of

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Introduction

Thank you Chair Cantwell, Ranking Member Wicker and members of the committee for convening this hearing on oversight of the airline industry during the longest sustained and biggest crisis in the history of our industry.

My name is Sara Nelson. I am a twenty-five year union Flight Attendant and president of the Association of Flight Attendants-CWA, AFL-CIO (AFA), representing Flight Attendants at 17 airlines across the industry. We also coordinate closely with our partner union the Communications Workers of America, the Association of Professional Flight Attendants and all of the transportation union affiliates of the Transportation Trades Department, AFL-CIO.

We are grateful for the opportunity to testify about the Payroll Support Program (PSP), a program that was built by, and for workers - with controls on airline management. It is important to hear from Labor because this program was designed for workers and our communities. Creating a #WorkersFirst relief program avoided putting more strain on safety net programs, provided stability for millions of workers, saved millions of ancillary jobs connected to the industry, and made it possible to restart our economy. Consumers haven't faced inflation in the cost of airline tickets because we were positioned to meet demand and companies were required to use the funds for payroll. They didn't have discretion to divert the funds to other illusory costs and then gouge consumers while blaming inflation. The program helped workers, helped the airlines, and helped consumers.

For the first time in American history a relief program told companies exactly how they had to apply the relief, the required service they must maintain for the country, and ensured federal dollars couldn't benefit executive compensation or rewards for Wall Street. We do not expect executives to talk about the benefits of capping their pay or banning stock buybacks and dividends. We do not expect executives to cheer the fact that inflation hasn't touched airline tickets and to the contrary ticket prices have dropped. Their investors don't want to hear any of this news that benefits workers, consumers, and our economy overall through a program that was built from the ground up. We are here to tell that story and applaud the bipartisan efforts to enact a relief plan with immediate and long-term returns to the public.

Some have questioned the use of the relief dollars in the wake of some operational meltdowns in late summer and fall. Staffing is above pre-pandemic levels if compared to the number of flight hours airlines are flying. But aviation workers are not as willing to pick up overtime due to the combative passengers and concerns around COVID. American worker productivity was higher than any developed country in the pre-pandemic world. This is also true in aviation, but it is not sustainable anywhere. Earlier airline operational meltdowns were the result of:

1. The lapse in PSP funding from October 1, 2020 - December 28, 2020, as we warned would happen due to a backlog in retraining, certification, and security credentials, and
2. Airlines planned operations based on pre-pandemic overtime hours, but workers were no longer willing to pick up overtime at the same rate because of the conditions at work.

Recognizing these issues, unions negotiated with management to put in place financial incentives to pick up time. It worked. Airline performance was off the charts over the Thanksgiving holiday travel week. There was no operational meltdown. PSP made it possible to meet demand.

Without PSP, many airlines would have liquidated in the midst of a 97% drop in demand that happened nearly overnight. It is important to remember the conditions our nation faced in March 2020 and the sustained harm affecting aviation around the world throughout the rest of 2020 and the first half of 2021. PSP made it possible to keep air transport infrastructure intact, invest in safety protocols, adjust company size to current realities through voluntary programs rather than forced layoffs, and reunite family and friends as the people were able to access the vaccine and spend on travel once again.

We Couldn't Allow a Repeat of the Fallout from 9/11

"Hold all other communications on pay cuts, base closures, and previously announced furloughs. United just called me. They're furloughing another 2,500 Flight Attendants. We need to deal with that first."

I'll never forget that call. It was 2003, and our union was six months into a 38-month bankruptcy at United Airlines that followed September 11th.

Nearly one in three United employees — 30,000 all told — lost our jobs during that bankruptcy. Our pension was gutted. And those who remained took two massive pay cuts. When United came out of bankruptcy, nearly 45% of the savings the corporation showed Wall Street came off the backs of workers.

Wall Street was ecstatic. Workers were devastated.

That time was the formative experience in my career. And that's why our union worked with urgency to craft a relief plan that ultimately became the Payroll Support Program.

We refused to follow the old "blank check for corporations" bailout playbook, especially for airlines. Our union had spent recent years protesting stock buybacks that pay out Wall Street and top executives while our staffing levels were cut to minimums and we had to work more just to make ends meet. Twenty years after the events of September 11, 2001, we were still feeling the effects of austerity and cost cutting while Wall Street had become more emboldened to take the profits made from our hard work. Prior to the pandemic inequality was felt in our paychecks, quality of life, and the configuration of the seats and service on our planes. Consumers experienced these cuts too along with all kinds of ancillary fees. Austerity also meant job loss and years of no hiring. Initiatives to promote diversity and inclusion suffered at the same rate that mature workers felt the sting of 25, 30, and 35 years on Reserve status or little ability to control our schedules.

I know from personal experience: the people who benefit if airlines go under are corporate executives, bankruptcy lawyers, and corporate management consultants who under corporate bankruptcy law get to walk away with hundreds of millions in bonuses.

We knew it would be immediate devastation for two million aviation workers if we couldn't get relief, but there was no way we were going to agree to a bailout for airlines. That's why our program demanded the requirements of no involuntary furloughs, no cuts to hourly rates of pay, continued service to all of our communities and a ban on stock buybacks and dividends along with caps on the executive compensation even after the relief period was complete.

Lessons from this Crisis

While we believe PSP was the most successful program in all of COVID relief, we also know where it could have been more clear to protect workers. All workers lost pay during COVID because overtime hours were not protected. However, the program was intended to keep workers employed at a regular full time rate. While the law explicitly protected hourly rate of pay, it did not spell out a definition of full time work. In most cases, this rate is defined in the union contracts that protect 80% of the airline workers. However, Delta Air Lines unilaterally cut hours for non-union workers to stretch PSP dollars further.¹ We believe this to be a violation of the PSP, but it is certainly an instruction for any future relief program intended to protect jobs.

We are not a bailout, but lately we have been punching bags. "Make it stop."

We strongly oppose any suggestion that the Payroll Support Program (PSP) was a bailout for airlines. The PSP, championed by the Commerce Committee, was a lifeline for aviation workers and the most successful and transparent program in all of COVID relief. Headlines that mischaracterize the purpose and use of this workers-first relief program, designed to continue the payroll for airline employees, make an already very difficult and stressful job on the frontlines of aviation even harder and more dangerous. We are the face of the airline and the direct interface with the public.

The problem with aviation right now is the violence towards Flight Attendants and other aviation workers that has remained constant at record high levels during the biggest crisis our nation has faced in 100 years. The last thing we need, especially before the December holidays after dealing with all of the stresses on the frontlines of this pandemic for two years, is a false narrative about the program. Unfounded controversy breeds contempt for aviation workers simply doing our jobs to keep everyone safe.

Throughout 2021, incidents of disruptive passengers and violent events against crew and passengers has been exponentially higher than any previous year in aviation. While the number of bad actors is relatively small, the rate of disruptions have been so pervasive Flight Attendants

¹ https://www.afacwa.org/letter_senatecommerce_involuntary_reduction_hours_intent_caresact

wonder every morning they put on their uniform whether it will be a sign of leadership and authority in the cabin to keep everyone safe, or a target for a violent attack.

Flight Attendants are aviation's first responders, charged with the safety and health of passengers and crew. For the past twenty years, since the tragic events of September 11, 2001, Flight Attendants have served as the last line of defense in aviation security. We know there are two fundamentals in aviation safety and security: 1) remove all distractions from safety sensitive work, and 2) leave all threats to safety and security on the ground.

The threat of a terrorist attack related to commercial aviation has not abated, but our vigilance and coordinated actions across government and aviation stakeholders has to date thwarted any planned attacks. If we allow disruptions in the cabin or distractions due to defiance of passengers to comply with crew instructions to become a regular occurrence, we are in jeopardy of missing cues of a coordinated attack or handing tools to those who wish to do us harm. We cannot be lulled into a place of accepting these distractions as a new normal.

Flight Attendants have one message for everyone who touches aviation and the lawmakers charged with oversight of our industry: Make it stop.

There is no doubt the issue of disruptive passengers is of paramount concern and requires all of us - federal and private sector workers, airlines, airports, regulators, and lawmakers to act with coordinated urgency across aviation to subdue this threat to aviation safety and security. Our union is very much on the record with defining this problem² and our recommendations to mitigate violent and disruptive events. In summary, we continue to call for:

Recommendations:

1. Clear communication on the rules from point of ticket sale and throughout the travel experience (airport signage, airport PSAs, and notifications from the airline) reinforcing the 'zero-tolerance' policy, the fines/jail time consequences, and the rules associated with alcohol consumption.
2. The DOJ must act with urgency to conduct criminal prosecution. Just ahead of the Thanksgiving holiday Attorney General Merrick Garland directed federal prosecutors to prioritize prosecution of disruptive airline passengers. This was welcome news, but our experience is that it takes publicly reported jail sentences for this to serve as an effective deterrent.
3. Ban to-go alcohol and delivery of open container alcohol to the gates. Limit customers to purchasing one alcoholic beverage at a time. Airports and airlines should brief all airport employees at the start of each shift of our shared responsibility to keep intoxicated passengers from boarding planes in violation of federal regulations.
4. Enforce the mask mandate consistently, starting in the airport. Model of compliance starting at the airport door. Make clear who is responsible to enforce at TSA and

² https://www.afacwa.org/unruly_passengers_survey

encourage all airport personnel to remind passengers of the rules and point to signage and announcements placed more frequently throughout the airport.

5. Consistent response and clear consequences. Increase coordination with law enforcement, airports, and airlines to act quickly in the airport to keep problems on the ground and respond effectively in the event of incidents reported in the air.
6. Government centralized list of offenders used to deny the ability to fly across all airlines on the day of an incident. Place travelers on central “banned passenger list” to deny right to fly for a period of time commensurate with the severity of the offense, recognizing all necessary due process to protect individual rights. Direct FAA passenger fines into a legal/medical fund for affected crewmembers, Passenger Service Agents, and Transportation Security Officers.
7. Airlines should utilize FAA guidance to respond consistently to disruptive and violent passenger incidents, including communicating thoroughly the role of Flight Attendants, agents, pilots, ground coordinators, and management in reporting the incident to law enforcement and internal company review. Workers must know both in advance and after any incident what to expect from the airline in terms of legal support and emotional assistance for any workers harmed in the course of a disruptive passenger event.
8. Require that all airport bars, restaurants, and shops post signage and issue verbal warnings to patrons who fail to comply with masking requirements and regulations related to alcohol consumption.
9. Relevant House and Senate Committees should work with urgency to enact legislation that expands FBI concurrent jurisdiction to include the jetbridge in order to ensure enforcement of federal crimes for violence that occurs when the airplane door is open.
10. Make crewmember self defense training mandatory. The voluntary program currently run by U.S. Air Marshals working in the Transportation Security Administration should be included in required continuing qualifications training for crew and paid by the airline as intended by Congress following the events of September 11, 2001.
11. Increase staffing at the gate and on each flight. Almost every passenger is an infrequent traveler today. We need more frontline workers in the airports and on planes who are able to answer questions, identify problems early in order to de-escalate, or simply have backup from other workers when issues get out of hand or require physical restraint and a law enforcement response. Regional airlines are reporting a couple of aggressive passenger incidents per week and often there is a single Flight Attendant to face unhinged rages.
12. Current conditions increase the urgency for the FAA and DOT to implement the Flight Attendant rest rules mandated by Congress in 2018.

CWA Calls on Congress to Help Enforce Protections for Passenger Service Agents Under Federal Law

Frontline ground service agents have worked throughout the COVID-19 pandemic to provide essential services across airports in the U.S. Their work, helping passengers navigate systemwide flight cancellations and delays, evolving testing requirements and enforcing federal and airline protocols at the gate, ensured passengers started and ended their journeys safely

and efficiently. During this busy and uncertain holiday travel season however, ground service agents are finding their duties interrupted by an unprecedented increase in assaults from violent passengers. Since January 2021, the Federal Aviation Administration (FAA) has recorded 5,553 incidents involving disruptive passengers across airports in the U.S.³ These records however, only account for incidents involving flight crews, which means assaults against agents on the ground are going unreported and unaddressed. CWA is encouraged by the FAA's efforts to record and address assaults against flight crews but we are concerned that more can be done to enforce federal protections for agents who are assaulted at the gates.

The Communications Workers of America represents 20,000 passenger service members working for American Airlines and wholly-owned regional subsidiaries Envoy Air and Piedmont Airlines. Over the past few months, our agents have experienced egregiously violent assaults that have had long lasting impacts on their physical, mental and emotional wellbeing. Our members have reported being repeatedly punched in the face, kicked, slammed against doors and counters and have even been spit on by passengers. The visible and invisible impacts these attacks have on our members should concern everyone.

The cause of these attacks vary but one common thread exists between these cases - the lack of enforcement by local, state and federal departments creates opportunity for attacks to continue and to increase in severity. When incidents occur at the gates, local law officers are slow to respond, fail to properly document the incident by taking statements from witnesses and often do not detain the offending passenger.

Further, even where arrests are made, local prosecutors rarely file serious charges in these cases. For example, on June 28, 2021, a passenger tried to board a flight from Charlotte International Airport in a state of extreme intoxication. When an agent barred him from boarding the plane, the passenger violently attacked our member and a supervisor. Despite the clear evidence of the assault, the Charlotte Police Department arrested and charged the passenger with less serious offenses such as, resisting arrest, disorderly conduct and trespassing in the gate area. To the best of our knowledge, not a single passenger who has assaulted a ground service worker has been prosecuted under federal law. This inaction signals to our members that their physical and emotional safety is not a priority.

Agents are exhausted by the little to no enforcement in cases that result in personal injury and emotional stress. Union representatives report the highest number of calls to employee assistance programs searching for ways to cope with fatigue, stress and fear caused by these incidents. Gate agents are a vital part of a multilayered airline security and safety process at the airport and their importance can not be understated. Our members are the last line of defense before a disruptive passenger boards an airplane and causes disruptions in the air. Stopping assaults at the gate should be the highest security priority for members of Congress.

The U.S. Attorney General's office recently issued a memorandum calling for an interagency coordination to address criminal conduct on commercial flights. Our members were excluded

³ https://www.faa.gov/data_research/passengers_cargo/unruly_passengers/

from this guidance. As oversight in these cases is within the purview of the Departments of Justice, Transportation and Homeland Security, we believe that an interagency working group that makes clear the responsibility of federal and local agencies in cases of assault at airport gates, ticket and reservation areas, and other on-the-ground airport locations is necessary. The interagency working group should clarify the specific agency roles and should establish a clear pathway for the reporting, processing, referral, and prosecution of assault cases. The interagency working group should include labor representatives of ground service workers. CWA has partnered with other unions representing passenger service agents to urge DOJ, DHS and DOT to urgently address this issue.

Millions of passengers are expected to travel during the upcoming Christmas and New Years holiday season. Right now, we have every indication that the trend of violent assaults and the lack of enforcement will continue without intervention. This Subcommittee can support our efforts to protect our members under federal law by urging the Department of Justice to arrest and prosecute passengers who assault, intimidate or threaten gate agents either verbally or physically - preventing them from performing their duties to secure the aircraft while loading and unloading. Our members should expect a safe and just workplace - in fact, our entire aviation system depends on it.

Payroll Support Program (PSP) Benefits Extend Well Beyond Furlough Protections

This pandemic has been brutal and we're not through it yet. But no one should question the effectiveness of the relief provided to airlines in order to keep workers in our jobs, connected to our healthcare, and qualified to work. The economic impact of PSP helped workers and companies beyond the direct grant recipients. We recently received this message about a company in south Florida that was able to survive, maintain 850 jobs, and be in a position to hire more employees today simply because aviation worker payroll was maintained.

"I just wanted to thank you on behalf of all of the families, including mine, that you impacted for the better across Aviation over the past two years... I profoundly remember sitting in our boardroom on March 10, 2020 talking about very difficult choices that we needed to make just to survive until the next month given the new and unforeseeable reality we faced. We had been in business for 2 decades and literally overnight we were confronted with what seemed to be an insurmountable task to survive Covid 19 impacts on global Aviation. As words such as shelter in place started to become common lingo the prospects for our industry and the millions of jobs tied to it seemed bleak to say the least. A long story short, due to people like you fighting on behalf of all of us and our families we have emerged stronger than ever and with more jobs and better salaries for our entire team. Thank you on behalf of all the ancillary businesses and the millions of dependents that you fought for in the darkest hours."

Maintaining jobs, certification and security credentials puts us in a stronger position to address today's aviation security issues. I'm proud to share this thank you note that could also be addressed to every member of this Committee who worked to make this program law. Our economy and our planet will benefit from this program for decades to come.

The International Transport Workers Federation commissioned a study that will release findings in the coming months. As an affiliate of the federation, I have seen the draft report that shows U.S. airlines need to spend \$256 billion dollars between 2020-2025 for fleet renewal given the age of their fleets. Saving the airlines by saving people first also makes it possible now to support aerospace and manufacturing jobs, transition to newer fuel efficient aircraft and sustainable fuels, and remain in place to immediately support our military with initiatives like Operation Allies Welcome.

PSP made it possible for us to get back to addressing many of the issues we had prior to the pandemic: safety, security, worker and consumer rights, diversity and inclusion, sustainability, implementing NextGen technology, and so much more.

Conclusion

We thank Congress, and especially the bipartisan efforts of this Committee, for enacting the Payroll Support Program. It worked. Now let's focus on a safer workplace for the people on the frontlines of aviation and a collaborative effort to end the pandemic.

Thank you for your continued oversight.