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## Addressing Unruly Airline Passengers

As airline passengers have returned to flying in increasing numbers following the Coronavirus Disease 2019 (COVID-19)-related drop in ridership during 2020, the number of reported unruly passenger incidents has increased substantially. Objections to mask requirements and excessive alcohol consumption have been cited as key contributors to the rise in incidents. An uptick in high-profile schedule disruptions as airlines adjust to meet growing air travel demand is another possible factor. The 117<sup>th</sup> Congress has raised concerns regarding unruly passenger conduct at oversight hearings and through Member correspondence with executive branch agencies; it has not passed related legislation.

### Incidents Onboard Aircraft

In the first nine months of 2021, the Federal Aviation Administration (FAA) received more than 4,000 reports of unruly behavior onboard aircraft, over 3,000 of which have been described as mask-related incidents. FAA has initiated more than 800 investigations of unruly passenger conduct in the first nine months of 2021, more than a five-fold annualized increase compared to recent years in which annual totals were below 200 (see **Figure 1**).

**Figure 1. Investigations of Unruly Passenger Conduct**



**Source:** Federal Aviation Administration.

**Note:** Annual data, except 2021 data through September.

A July 2021 labor union survey of almost 5,000 flight attendants found that 85% experienced unruly passenger behavior during the first half of 2021, including verbal abuse; racist, sexist, and homophobic slurs; threats; and physical violence. More than half experienced five or more such incidents, and 17% of respondents reported being involved in physical altercations. Law enforcement was reportedly informed of about one-third of verbal incidents and about 60% of physical altercations.

### Incidents at Airports

Unruly behavior by airline passengers has not been limited to airplanes. The Transportation Security Administration (TSA) has documented more than 60 cases of passengers assaulting screeners since the pandemic began in March 2020. In January 2021, President Biden imposed a federal mask mandate for domestic and international travel that

remains in effect. The mandate requires masks to be worn, in compliance with Centers for Disease Control and Prevention guidelines, in airport terminals as well as onboard commercial aircraft. TSA is charged with enforcing these rules, and passengers refusing to comply may face TSA-imposed fines of \$500 to \$1,000 for first offenses and up to \$3,000 for repeat offenses. It is unclear if any incidents involving TSA agents are tied to the mask mandate, but it does appear that some altercations at airports have involved confrontations about masking. Threats to and assaults on airline customer service agents are not new, and it is difficult to ascertain whether the number of such incidents has been rising. A 2019 Government Accountability Office (GAO) survey of 104 airline customer service agents found that almost all had experienced verbal harassment, about 44% had been threatened verbally, about 21% had experienced an attempted physical assault, and about 10% reported being physically assaulted on the job over the course of the year prior to the survey.

### Government and Industry Response

In the first nine months of 2021, FAA issued more than \$1 million in airline passenger fines, averaging more than \$15,000 each. While individual airlines keep lists to bar passengers from future flights for egregious violations of their contract-of-carriage terms, including unruly behavior, this information is not available publicly and is not shared with other airlines. The airline industry has indicated that there may be both operational and legal barriers to sharing these lists among airlines. The federal government generally does not bar individuals from flying unless they pose a clear terrorist threat to aviation, in which case they may be placed on the “no fly” list maintained by the Terrorist Screening Center and checked by TSA.

### Applicable Statutes and Regulations

FAA regulations prohibit interference with flight and cabin crewmembers. Specifically, 14 C.F.R. §§91.11, 121.580, and 135.120 state that “no person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember’s duties aboard an aircraft being operated.” 49 U.S.C. §46318 gives FAA express authority to fine individuals who assault or threaten crewmembers or any other individual onboard an aircraft or who take any action that poses an imminent threat to the aircraft or people onboard. Language in the FAA Reauthorization Act of 2018 (P.L. 115-254) increased the maximum civil penalty for such violations from \$25,000 to \$35,000. This penalty is adjusted annually for inflation, and effective May 3, 2021, was set at \$36,948 per violation. FAA notes that one incident could result in multiple violations. P.L. 115-254 also expanded the scope of the

statute to include sexual assault in addition to physical assault.

Furthermore, 49 U.S.C. §46504 authorizes criminal penalties, including fines and imprisonment up to 20 years, for assaulting or intimidating pilots or flight attendants and thereby interfering with the performance of their official duties. Stiffer penalties are available when the prohibited conduct involves use of a dangerous weapon. It is up to the Department of Justice (DOJ) to prosecute disruptive or violent passengers. While FAA's enforcement actions have increased over the past year, few of these cases have historically led to criminal prosecutions. The criminal statute generally applies to all persons aboard all aircraft in flight in U.S. airspace, U.S.-flag aircraft and certain other aircraft with business ties to the United States in flight anywhere in the world, and in flight foreign-registered aircraft directly inbound to or departing from the United States. Aircraft are generally considered to be in flight from the moment all external doors are closed following boarding until the moment when one such door is opened to disembark passengers (see 49 U.S.C. §46501).

Regarding incidents at commercial airports in the United States, 49 U.S.C. §46503 establishes criminal penalties, including fines and imprisonment up to 10 years, for assaults against federal, airport, or air carrier employees with security duties, when the assault interferes with these duties. As with Section 46504, additional penalties are available for prohibited conduct involving a dangerous weapon. Depending on circumstances, Section 46503 may encompass incidents directed at airline and airport employees, including airline customer service agents, airport security contractors, and airport law enforcement officers, as well as TSA screeners. In 2018, it was revealed that TSA maintains a list of passengers who have assaulted screeners or who have otherwise attempted to circumvent security screening. The list, referred to as the "95 list," has been described by TSA as a situational awareness tool. According to TSA, being placed on this list does not impact whether a passenger will undergo enhanced screening or be denied boarding. TSA relies on separate lists to identify individuals with suspected ties to terrorism who are to be automatically selected for enhanced security screening and a smaller "no fly" list of individuals who are to be denied boarding based on terrorism threat assessments.

### Informing and Educating Flyers

In response to growing concerns over unruly passengers, FAA launched the "Zero Tolerance for Unruly and Dangerous Behavior Toolkit" in 2021, which includes airport signage, internet-based messaging, and public service announcements aimed at increasing awareness about enforcement actions to deter unruly behavior (see **Figure 2**).

### Airline Training

49 U.S.C. §44734 requires airline flight attendant training to include specific training on serving alcohol to passengers, recognizing intoxicated passengers, dealing with disruptive passengers, and recognizing and responding to potential human trafficking victims. It also requires situational training "on the proper method for dealing with intoxicated passengers who act in a belligerent manner."

**Figure 2. Digital Signage from FAA's 2021 Public Education Campaign**



Source: Federal Aviation Administration.

Additionally, 49 U.S.C. §44918 mandates that air carriers provide a training program for flight and cabin crew primarily aimed at protecting and defending against terrorist threats. This training must cover recognition of suspicious activities, crew communication and coordination, self-defense, and situational training exercises regarding various threat conditions. The statute also requires TSA to offer, free of charge, voluntary advanced self-defense training to airline flight and cabin crewmembers that includes training in techniques to deter a passenger who might present a threat; self-defense; and methods to subdue an attacker. This training was paused due to the pandemic, but resumed in summer 2021.

### Congressional Interest

Some Members of Congress have expressed interest in additional legislative measures to hold disruptive passengers more accountable for their actions and to better equip airline employees with tools and training to handle unruly passengers. H.R. 5357 would mandate a GAO study of airline procedures, policies, and training for handling unruly passengers, including methods to physically restrain them, and would order FAA to develop best practices to mitigate the impacts of unruly passenger incidents based on the GAO findings.

At a September 23, 2021, House Aviation Subcommittee hearing, some Members urged action to curb or ban "to go" alcohol sales at airports, which, they argue, enable passengers to sneak alcoholic beverages onboard aircraft in violation of FAA regulations and contribute to alcohol-fueled air rage. Additionally, some Members of Congress have urged DOJ to step up criminal prosecutions, arguing that civil penalties alone appear to be failing to deter unruly behavior. A more sweeping proposal involves creating a federal government list to ban individuals involved in air rage incidents from airline flights for a period of time. As most of these cases have resulted in civil rather than criminal penalties and many may be pending adjudication, a federally imposed restriction on flying might face legal challenges.

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