

March 16, 2020

To the Aviation Consumer Protection Advisory Committee:

The U.S. Department of Transportation established the National In-Flight Sexual Misconduct Task Force (Task Force) as a subcommittee of the Aviation Consumer Protection Advisory Committee on February 11, 2019. As Chair of the Task Force, I submit to you the Task Force's report on in-flight-sexual misconduct on commercial flights.

The Task Force listened to first-hand accounts from passengers and flight attendants who experienced in-flight sexual misconduct, and about actions that airlines and law enforcement had taken after such incidents. The Task Force also reviewed complaints of in-flight sexual misconduct filed with the Federal government and considered the results of airline and airport surveys. The Task Force heard from law enforcement and Federal agencies on their efforts to address incidents of sexual misconduct and listened to the perspectives of consumers, labor unions, a provider of victim services, victim-centered nonprofits, and experts focused on training related to sexual violence and harassment. The Task Force carefully analyzed this information and the expertise and dedication of each member resulted in this comprehensive report.

This report provides information on existing practices on reporting, data collection, and training on responding to and addressing allegations of in-flight sexual misconduct. This report also highlights aspects of awareness, reporting, data collection, and training that are suitable for enhancement and development. Finally, the report makes recommendations on actions that could be taken by the Federal government, law enforcement agencies, airlines, airports, and unions.

The Task Force asks that the Aviation Consumer Protection Advisory Committee consider this report in making recommendations to the Secretary. The Task Force is confident that this report and adoption of its recommendations will lead to enhanced awareness, reporting practices, data collection, and training, thereby improving responses to incidents of sexual misconduct that take place onboard commercial aircraft and, over time, reducing incidents of in-flight sexual misconduct. The Task Force expects that, although this report is focused on passengers, implementation of the Task Force's recommendations may also improve responses to reduce sexual misconduct experienced by flight attendants and reduce such incidents.

Sincerely,

Judith S. Kaleta  
Chair  
National In-flight Sexual Misconduct Task Force

*-original signed -*

A Report on Sexual Misconduct on Commercial Flights  
By the National In-Flight Sexual Misconduct Task Force

*March 2020*

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### Commonly Used Acronyms

ASTA	American Society of Travel Advisors
DOJ	U.S. Department of Justice
	<ul style="list-style-type: none"><li>• OVC Office for Victims of Crime</li><li>• OVW Office on Violence against Women</li></ul>
HHS	U.S. Department of Health & Human Services
DOT	U.S. Department of Transportation
	<ul style="list-style-type: none"><li>• FAA Federal Aviation Administration</li><li>• OST Office of the Secretary of Transportation</li></ul>
FBI	Federal Bureau of Investigation
IATA	International Air Transport Association
RAINN	Rape, Abuse, & Incest National Network
TSA	Transportation Security Administration

# Chapter 1

## Overview of the In-Flight Sexual Misconduct Task Force

### 1.1 Introduction

U.S. Secretary of Transportation Elaine L. Chao established the National In-Flight Sexual Misconduct Task Force (Task Force) on February 11, 2019. The Task Force was established in response to the FAA Reauthorization Act of 2018 (FAA Act)<sup>1</sup> and the Joint Explanatory Statement of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for Fiscal Year 2018 (Joint Statement)<sup>2</sup> and in furtherance of the aviation consumer protection responsibilities of the U.S. Department of Transportation (DOT).

In the Joint Statement, Congress expressed concern about the adequacy of the response to incidents of sexual assault and sexual harassment that take place onboard commercial aircraft. Congress noted that there is limited data on the prevalence of incidents of sexual assault and harassment on commercial aircraft and a lack of guidance and training for airline personnel to respond to such incidents. It requested the establishment of a task force to provide recommendations to the Secretary of Transportation on best practices and protocols for air carriers<sup>3</sup> relating to training, reporting, and data collection.

Subsequently, section 338 of the FAA Act, enacted on October 5, 2018, expresses the Sense of Congress that airlines should have policies and procedures in place to address sexual misconduct. This includes policies and procedures to report incidents to law enforcement, inform passengers and employees of their rights, and train employees on responding to sexual misconduct. It was also the Sense of Congress that individuals who perpetrate sexual misconduct should be held accountable under all applicable Federal and State laws.

Section 339 of the FAA Act provides DOT's Federal Aviation Administration (FAA) the authority to assess a civil penalty for sexually assaulting or threatening to sexually assault a member of the flight crew, cabin crew or other individual on the airplane and increases the current civil penalty for interference from \$25,000 to \$35,000.<sup>4</sup>

Section 339A of the FAA Act requires the establishment of a task force to review current practices, protocols, and requirements of air carriers in responding to allegations of sexual misconduct by passengers onboard aircraft including training, reporting, and data collection.<sup>5</sup> The FAA Act states that the task force is to provide recommendations on training, reporting, and data collection regarding allegations of sexual misconduct occurring on passenger airline flights that are informed by the Task Force's review of airline practices and first-hand accounts from passengers who have experienced sexual misconduct onboard aircraft. For purposes of this report, "airline" refers only to U.S. air carriers, which is consistent with the Task Force's

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<sup>1</sup> FAA Reauthorization Act of 2018, 115 Pub. L. No. 254 § 339 (2018). (See Appendix A).

<sup>2</sup> JOINT EXPLANATORY STATEMENT OF THE SENATE COMMITTEE ON APPROPRIATIONS ON S.1655, 115th Cong., 1st Sess. Washington: U.S. Gov't. Printing Off. (2017). (See Appendix B).

<sup>3</sup> "Air carrier" is a statutorily defined term and includes only U.S. air carriers and not foreign air carriers. 49 C.F.R. §1510.3 (2015).

<sup>4</sup> FAA Reauthorization Act of 2018 § 339(a).

<sup>5</sup> *Id.* § 339A(a). For purposes of this report, the term air carrier is used interchangeably with "carrier" and "airline".

mandate under the FAA Act. Section 339A specifies that the Task Force’s recommendations on data collection should protect the privacy and confidentiality of individuals involved in incidents of alleged sexual misconduct and preclude the release of data that publicly identifies an individual air carrier.

Section 339B of the FAA Act requires the U.S. Department of Justice (DOJ) to establish a streamlined process for individuals involved in an incident of in-flight sexual misconduct to report such allegations to law enforcement.<sup>6</sup> Under the FAA Act, the streamlined process is required to be based on the plan that DOT develops to address recommendations it receives on in-flight sexual misconduct incidents.<sup>7</sup> Section 339B further requires that the streamlined process for reporting incidents of in-flight sexual misconduct to law enforcement be made available to the public by the DOJ’s Office for Victims of Crime (OVC) and the Office on Violence Against Women (OVW), the Federal Bureau of Investigation (FBI) and DOT.

The Task Force included representatives of the Federal government, State and local law enforcement agencies, and various non-governmental organizations representing stakeholders.<sup>8</sup> Specifically, the members included representatives of the following: DOT; DOJ (including OVC, OVW, and the FBI), U.S. Department of Health and Human Services (HHS), a national organization specializing in providing services to sexual assault victims, a national travel organization, and labor organizations representing flight attendants and pilots. The Task Force also included individuals representing the interests of consumers, local law enforcement, airports, and air carriers.

The Task Force was charged with:

- Reviewing and evaluating existing ways for passengers involved in incidents of sexual misconduct by other passengers onboard commercial aircraft to report such allegations to the carrier;
- Reviewing and evaluating air carriers’ existing training protocols and identifying best practices to address incidents of sexual misconduct onboard commercial aircraft;
- Reviewing and evaluating existing reporting protocols and identifying best practices for air carriers timely to report (or to facilitate the timely reporting of) incidents of sexual misconduct by passengers onboard commercial aircraft to law enforcement authorities, ensuring privacy protections for victims;
- Reviewing and evaluating air carriers’ existing data collection practices, if any, and identifying effective methods to collect, maintain, and make publicly available data on incidents of sexual misconduct by passengers onboard commercial aircraft in a manner that maintains privacy protections for individuals and precludes the release of data that publicly identifies an individual carrier;

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<sup>6</sup> FAA Reauthorization Act of 2018 § 339B(a).

<sup>7</sup> *Id.*

<sup>8</sup> Task Force Membership at Appendix D; *see also* FAA Reauthorization Act of 2018 § 339A(b).

<sup>9</sup> The Task Force Charter provides a further description of member duties. *See* Appendix C.

- Reviewing and utilizing first-hand accounts from passengers who have experienced sexual misconduct onboard commercial aircraft; and
- Reviewing any other air carrier practice addressing incidents of sexual misconduct by passengers on board commercial aircraft, if needed.<sup>9</sup>

Secretary Chao established the In-flight Sexual Misconduct Task Force as a subcommittee of the DOT's Aviation Consumer Protection Advisory Committee (ACPAC) which was re-constituted<sup>10</sup> in November 2018.

The purpose of this report is to provide information on existing airline practices on reporting, data collection, and training on responding to and addressing allegations of in-flight sexual misconduct. This report also highlights aspects of awareness, reporting, data collection, and training that are suitable for enhancement and development and makes recommendations. The Task Force expects that this report and adoption of its recommendations will lead to enhanced awareness, reporting practices, data collection, and training, thereby improving responses to incidents of sexual misconduct that take place onboard commercial aircraft and, over time, reducing incidents of in-flight sexual misconduct.

## 1.2 Background

Air travel impacts the lives of the vast majority of Americans. According to the latest data from DOT's Bureau of Transportation Statistics, U.S. airlines and foreign airlines serving the United States carried more than one billion people in 2018.<sup>11</sup> While a majority of passengers travel without incident, there have been increased concerns of passenger misconduct. The Task Force learned that passenger misconduct in air travel is not new and were informed of an incident from 1995 where a man pleaded guilty to fondling a 15-year-old girl sitting next to him on a flight from Los Angeles to Australia, which was highlighted in a 1998 Wall Street Journal article.<sup>12</sup>

In the last year, more than 20 years since the 1998 Wall Street Journal article, prosecutions of sexual misconduct cases on aircraft are continuing. In 2018, a passenger was convicted of sexually assaulting a woman while she was sleeping during an overnight flight from Las Vegas to Detroit.<sup>13</sup> Only a few months after this incident, two other men were arrested on charges of

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<sup>9</sup> The Task Force Charter provides a further description of member duties. *See* Appendix C.

<sup>10</sup> Formerly known as the Advisory Committee on Aviation Consumer Protection. The FAA Act extended the authorization for the Committee from September 30, 2018 to September 30, 2023. *See* FAA Reauthorization Act of 2018, § 415.

<sup>11</sup> BUREAU OF TRANSPORTATION STATISTICS, U.S. DEPT. OF TRANSP., ANNUAL PASSENGERS ON ALL U.S. SCHEDULED AIRLINES (DOMESTIC & INTERNATIONAL) AND FOREIGN AIRLINE FLIGHTS TO AND FROM THE UNITED STATES 2003-2018 (2018).

<sup>12</sup> Asra Q. Nomani, *A New Problem for the Airlines: Sexual Misconduct at 37,000 Feet*, WALL STREET J. (1998), <https://www.wsj.com/articles/SB897364901819356000>.

<sup>13</sup> Press Release, U.S. Dep't. of Just., U.S. Attorney's Off. for the Eastern District of Mich., Rochester Hills Man Sentenced on Charge of Sexual Abuse on an Aircraft, (December 13, 2018), <https://www.justice.gov/usao-edmi/pr/rochester-hills-man-sentenced-charge-sexual-abuse-aircraft>.

abusive sexual contact onboard an aircraft.<sup>14</sup> One of the men was charged with sexually assaulting a woman while she was sleeping, and the other man was charged with abusive sexual contact after inappropriately touching and grabbing a woman.

According to the FBI, in Fiscal Year 2017, 63 investigations involving sexual assaults on aircraft were opened, and that number rose to 84 in Fiscal Year 2018.<sup>15</sup> The FBI explained that the number of investigations refers to investigations opened after FBI learns of an incident of in-flight sexual misconduct. All reported incidents do not result in the FBI's opening an investigation. Further, the FBI states that it does not have confidence that the number of incidents reported to the FBI are an accurate representation of the number of incidents of in-flight sexual assaults, as many incidents are unreported.<sup>16</sup>

<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
63	84	119

At times, members of the public contact DOT rather than the FBI when there is an in-flight sexual misconduct incident. DOT's Office of Aviation Enforcement and Proceedings (Office of Aviation Enforcement) receives consumer complaints against airlines including complaints from passengers alleging in-flight sexual misconduct. In November 2016, DOT established a separate complaint category for allegations of in-flight sexual misconduct to enable DOT to track such incidents better. Since then, DOT has received 43 complaints of sexual misconduct on flights.<sup>17</sup> Of these 43 complaints, two were received between November and December 2016, 17 were received in 2017, and 14 in 2018.<sup>18</sup> In calendar year 2019, DOT received 10 complaints of in-flight sexual misconduct.

DOT forwards complaints that it receives regarding in-flight sexual misconduct to the airline and directs the airline to respond directly to the consumer. Because complaints alleging in-flight sexual misconduct may involve potentially criminal conduct, in February 2020, DOT's Office of Aviation Enforcement began sending complaints alleging in-flight sexual misconduct to the FBI for possible investigation. Previously, the Office of Aviation Enforcement informed passengers alleging in-flight sexual misconduct on how to contact the FBI but did not forward the complaints to the FBI. DOT's Office of Aviation Enforcement does not have the authority to conduct criminal investigations.

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<sup>14</sup> Press Release, U.S. Dep't. of Just., U.S. Attorney's Off. for the Western District of Wash., Two Men Charged in Separate Incidents of Sexual Assault Aboard Aircraft Destined for Sea-Tac Airport, (August 30, 2018), <https://www.justice.gov/usao-wdwa/pr/two-men-charged-separate-incidents-sexual-assault-aboard-aircraft-destined-sea-tac-0>.

<sup>15</sup> Press Release, U.S. Fed. Bureau of Investigation, Sexual Assault Aboard Aircraft: Raising Awareness About a Serious Federal Crime, (April 26, 2018), <https://www.fbi.gov/news/stories/raising-awareness-about-sexual-assault-aboard-aircraft-042618>. The fiscal year is the accounting period for the federal government which begins on October 1 of one calendar year and ends on September 30 of the next calendar year.

<sup>16</sup> *Id.*

<sup>17</sup> Data compiled by the Aviation Consumer Protection Division of the United States Department of Transportation, <http://www.transportation.gov/airconsumer> (last accessed November 1, 2019).

<sup>18</sup> *Id.*



Sometimes, passengers report incidents of sexual misconduct to the FAA through the FAA Hotline Reporting Form, <https://hotline.faa.gov> (FAA Hotline). The FAA also learns of incidents of in-flight sexual misconduct through information relayed (in real time) to air traffic control from pilots and/or airline ground operations<sup>19</sup> and through routine airline inspections, each housed in a different division of the FAA. The FAA has the authority under 49 U.S.C. § 46318 to investigate incidents of sexual assault or threats of sexual assault when such incidents are reported.<sup>20</sup> However, the FAA does not maintain a database that segregates sexual assault incidents or threats from other prohibited incidents involving interference with a pilot or flight attendant.<sup>21</sup>

In the last five years, DOT's Office of Inspector General (OIG) has received one complaint related to in-flight sexual misconduct, which was referred to the FBI and the FAA for further investigation. Generally, when criminal referrals are received by DOT's OIG, either an OIG investigation is opened (when appropriate) or the initial complaint is closed and returned to the referring agency. DOT's OIG informs the FBI of any criminal investigation that the OIG opens, and the FBI may or may not join the case.

Passengers harassing, abusing, or assaulting other passengers in the close environment of an aircraft is not the only issue regarding sexual misconduct onboard aircraft.<sup>22</sup> According to a survey conducted by the Association of Flight Attendants – CWA (AFA) in 2017, roughly 68% of flight attendants have reported being targets of sexual harassment and 18% experienced physical sexual harassment from passengers.<sup>23</sup> The survey found that only 7% of flight attendants who have been victims of this widespread problem have reported it to their employers.<sup>24</sup> According to the survey, the most common response to flight attendants experiencing physical harassment is to avoid further interaction with the passenger.<sup>25</sup>

### 1.3 Jurisdictional Matters

Incidents of in-flight sexual misconduct pose unique jurisdictional challenges. The determination of whether a State, the Federal government, or another country has the authority to investigate in-flight sexual misconduct incidents and prosecute cases of this nature is based on where the incident occurred and whether the incident occurred on a U.S. air carrier or a foreign air carrier.

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<sup>19</sup> Ground operations centers may be called different names by different airlines. For example, ground operations centers may be referred to as a Network Operation Center, an Operation Control Center or a Flight Control Operations Center.

<sup>20</sup> The FAA's authority under 49 U.S.C. § 46318 is limited to incidents of physical or sexual assault or threats of physical or sexual assault.

<sup>21</sup> See *infra* Chapter 4.5 for a full discussion of how FAA learns of incidents of in-flight sexual misconduct.

<sup>22</sup> See FEDERAL AVIATION ADMINISTRATION, U.S. DEP'T. OF TRANSP., *Unruly Passengers Calendar Years 1995-2019*. (2019).

<sup>23</sup> Press Release, Assoc. of Flight Attendants – CWA, *Survey Reveals Widespread Harassment of Flight Attendants*, (May 10, 2018), [https://www.afacwa.org/survey\\_reveals\\_widespread\\_harassment\\_of\\_flight\\_attendants](https://www.afacwa.org/survey_reveals_widespread_harassment_of_flight_attendants). According to the survey, physical sexual harassment included “having their breasts, buttocks and crotch area “touched, felt, pulled, grabbed, groped, slapped, rubbed, and fondled” both on top of and under their uniforms. Other abuse included passengers cornering or lunging at them followed by unwanted hugs, kisses and humping.”

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

Generally, a crime committed aboard an aircraft falls within the jurisdiction of the FBI.<sup>26</sup> Acts that are ordinarily State crimes, such as sexual assault, can be prosecuted under federal law if they occur within the special aircraft jurisdiction of the United States.<sup>27</sup> The criminal acts that can be prosecuted under special aircraft jurisdiction include, among others, assault<sup>28</sup> and sexual abuse offenses.<sup>29</sup> In addition, special aircraft jurisdiction extends to lewd, indecent, or obscene acts, as defined in the code of the District of Columbia.<sup>30</sup> Therefore, acts that constitute sexual misconduct<sup>31</sup> on aircraft are within the investigative purview of the FBI when they occur within the special aircraft jurisdiction of the United States.

Special aircraft jurisdiction applies to an “aircraft in flight” that can be categorized as:

- a civil aircraft of the U.S.
- another aircraft in the U.S.
- another aircraft outside the U.S. that has its next scheduled destination or last place of departure in the U.S., if the aircraft next lands in the U.S.<sup>32</sup>

In other words, the special aircraft jurisdiction applies to an aircraft operated by a U.S. carrier, irrespective of its origin or destination, from the moment all external doors are closed following boarding through the moment that the external door is opened to allow passengers to deplane.<sup>33</sup> However, when the U.S. carrier’s destination is a foreign country, it is more difficult for the FBI to investigate in that country and for the U.S. Attorney’s Office in the relevant jurisdiction to prosecute such cases despite having the authority. According to the FBI, if an incident of sexual misconduct occurs on a U.S. carrier arriving at a foreign airport, local law enforcement is the first to respond to the aircraft. As such, local law enforcement may gather preliminary information for foreign incidents even when the FBI has jurisdictional authority. With regard to an aircraft operated by a foreign air carrier, the special aircraft jurisdiction applies from the moment all external doors are closed following boarding through the moment that the external door is opened in the United States to allow passengers to deplane. The FBI does not have the authority to investigate or prosecute sexual misconduct incidents that occur on a foreign air carrier when its destination is a foreign country.

Separately, the FBI can investigate incidents involving pilots or flight attendants under 49 U.S.C. § 46504, which covers assault, intimidation, or interference with the pilot or flight attendant.<sup>34</sup> For example, simple assault, made criminal within the special aircraft jurisdiction of the United States by 49 U.S.C. § 46506, can be a lesser included offense of interference with pilots or flight attendants.<sup>35</sup> It is worth noting that a State may also have concurrent jurisdiction with the Federal

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<sup>26</sup> 49 U.S.C. § 46506(1).

<sup>27</sup> *Id.*

<sup>28</sup> 18 U.S.C. § 113.

<sup>29</sup> 18 U.S.C. §§ 2241 – 44.

<sup>30</sup> 49 U.S.C. § 46506(2); *see also*, D.C. Code § 22-1112 (laws on indecent exposure).

<sup>31</sup> *See infra*, Chapter 2 “Definition of Sexual Misconduct”.

<sup>32</sup> 49 U.S.C. § 46501(2).

<sup>33</sup> 49 U.S.C. § 46501(1).

<sup>34</sup> 49 U.S.C. § 46504 (applies to assault or intimidation of a “flight crew member or flight attendant”, interference with the performance of their duties or attempts or conspiracy to take such acts; this statute does not apply to passengers).

<sup>35</sup> *See United States v. Flores*, 968 F.2d 1366, 1370-72 (1st Cir. 1992).

government to investigate and prosecute in-flight sexual misconduct incidents in situations where the flight operated solely within one State.

#### **1.4 Task Force Reviews and Analysis**

The Task Force had an organizational meeting by teleconference in March 2019, and held in-person meetings in April, May, June, July, and September 2019. During these meetings, the Task Force reviewed complaints of sexual misconduct filed with DOT, heard first-hand accounts from passengers and flight attendants who have experienced in-flight sexual misconduct, and learned about actions that airlines and law enforcement have taken after such incidents. The Task Force also reviewed the results of airline and airport surveys regarding reporting, training, and data collection. The Task Force heard from law enforcement and Federal agencies on their efforts to address incidents of sexual misconduct and listened to the perspectives of consumers, labor unions, a provider of victim services, victim-centered nonprofits, and experts focused on training related to sexual violence and harassment. The Task Force analyzed the information in connection with awareness, training, reporting, and data collection.

**a. April 2019 Meeting:** The April 10 meeting had four areas of focus: (1) the definition of sexual misconduct, (2) training, (3) data collection, and (4) reporting. During this foundational meeting, members of the Task Force presented in their respective areas of expertise to ensure a better understanding of the problem. For example, DOT provided information on the complaints that it has received from members of the public alleging sexual misconduct during flights. The presentations led to discussions about current airline training practices for flight attendants, pilots, and others when responding to reported incidents of sexual misconduct. The Task Force also discussed current law enforcement and data collection practices and existing ways passengers report incidents.

**b. May 2019 Meeting:** At the May 22 meeting, the Task Force hosted an all-day listening session to hear first-hand accounts from individuals who have experienced sexual misconduct onboard a commercial aircraft.

During the first listening session, a woman described her disbelief when she woke up to find a man grabbing her crotch in the middle of a flight and stated there was a lack of response from flight attendants and law enforcement authorities after she told them her account. In the second listening session, another woman spoke about having her breast groped by a male passenger seated behind her. During the third listening session, a woman stated that the female passenger sitting next to her was masturbating and she did not want to ring the call button for the flight attendant or get up to tell a flight attendant because the “fasten seatbelt” sign was illuminated in preparation for landing. During the fourth listening session, a flight attendant described her agitation when a passenger grabbed her breasts as she was assisting him in removing his bag from the overhead compartment.

The Task Force heard about the process these individuals followed to report incidents of in-flight sexual misconduct to the airline or law enforcement, learned about the action the airline or law enforcement took, or did not take, to act on those reports, and heard from the victims on what actions they believe the airline or law enforcement could have taken to address the incidents. The

Task Force discussed training, data collection, passenger awareness campaigns, and reporting protocols in light of the incidents shared during the listening session.

**c. June 2019 Meeting:** The June 26 and June 27 meetings of the Task Force included a listening session and further discussions on defining sexual misconduct, data collection, reporting, and awareness. During the listening session, a flight attendant shared her experience with incidents of in-flight sexual misconduct, which included instances where she was the victim and others where passengers were the victims. She described an incident where a young boy seated next to his father was inappropriately touched by another passenger seated behind them. She also shared her experience with passengers taking inappropriate or suggestive photos of other passengers.

A consumer rights organization, not represented on the Task Force, also presented regarding its concerns about in-flight sexual misconduct and shared recommendations to address it. The Task Force continued to discuss ways to increase awareness about in-flight sexual misconduct, and worked to develop a definition of sexual misconduct in light of the incidents shared during the listening sessions. In addition, the Task Force discussed data collection purposes and practices.

Through a collaborative discussion, the Task Force developed a preliminary working definition of sexual misconduct for purposes of its work and recommendations. The Task Force also identified purposes of data collection and continued its discussion of awareness campaigns conducted by airports and airlines.

**d. July 2019 Meeting:** The Task Force held its fourth meeting on July 24. During this meeting, the Task Force focused on reporting practices, including how passengers who experience in-flight sexual misconduct communicate with airline staff, how best to obtain relevant contact information from victims and alleged offenders, and how and when to contact law enforcement. Lastly, the Task Force discussed additional data collection practices by airlines and reviewed airline definitions of sexual misconduct. The Task Force continued to take into consideration information shared during the listening sessions in May and June during these discussions.

**e. September 2019 Meeting:** The Task Force met on September 24 and 25 to discuss current training practices and limitations of such trainings' application, including sexual misconduct training in other industries. The FAA presented information about reporting, coordination with law enforcement, and the FAA's purview over sexual misconduct. The Task Force also reviewed all prior suggestions and areas of agreement for purposes of its report, to reach consensus on recommendations and discussion topics.

**f. October and November 2019 Teleconferences:** The Task Force had telephone conferences in October and November to discuss the contents of this Report.

The Task Force established an email address where members of the public could contact the Task Force and posted periodic updates on the Task Force's webpage.<sup>36</sup>

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<sup>36</sup> The Task Force's webpage can be accessed at <https://www.transportation.gov/airconsumer/ACPAC/in-flight-sexual-misconduct-task-force>

## **1.5 Scope of Task Force's Review**

The focus of the Task Force's work has been on in-flight sexual misconduct incidents involving passengers; however, the Task Force also heard first-hand accounts from flight attendants who have experienced incidents of in-flight sexual misconduct and reviewed survey data from a flight attendant association.<sup>37</sup> The Task Force recognizes that, according to the survey, most flight attendants have been subjected to sexual misconduct in the course of their duties and, as a result, may have experienced trauma that affects their ability to respond when incidents involving sexual misconduct are reported by passengers. The Task Force expects that, although this report is focused on passengers, implementation of the Task Force's recommendations may also improve responses to reports of sexual misconduct experienced by flight attendants and reduce such incidents.

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<sup>37</sup> Press Release, Assoc. of Flight Attendants – CWA, Survey Reveals Widespread Harassment of Flight Attendants, (May 10, 2018), [https://www.afacwa.org/survey\\_reveals\\_widespread\\_harassment\\_of\\_flight\\_attendants](https://www.afacwa.org/survey_reveals_widespread_harassment_of_flight_attendants).

## Chapter 2

### Definition of Sexual Misconduct

*Ms. B stated that she was seated by the window on a night-time flight. She explained that when she leaned her head against the window to sleep, she felt something on the side of her seat. She expounded that the male passenger behind her had reached his hand forward, between the seat and the window to grope her breast.*

*Ms. B, meeting #2*

*Ms. E recounted an incident where a male passenger approached her in the back galley and began a conversation with her. She stated that the male passenger asked her to join the mile-high club with him.*

*Ms. E, meeting #3*

*Ms. C described an incident that she experienced on a flight she took with her husband. Ms. C stated that she was seated in the middle seat next to her husband and the female passenger in the window seat next to her began to masturbate.*

*Ms. C, meeting #2*

The term “sexual misconduct” can encompass a variety of actions. The Joint Statement requests the establishment of a task force to address “sexual assault” and “sexual harassment” onboard aircraft.<sup>38</sup> The FAA Act mandates the establishment of the National In-Flight Sexual Misconduct Task Force. The FAA Act does not provide a definition for the term “sexual misconduct.”<sup>39</sup> Moreover, there is also no Federal definition for sexual misconduct in the U.S. Code and definitions vary State by State. Because there is no definition of sexual misconduct in the FAA Act, the Task Force deliberated on what sexual misconduct should mean in connection to its efforts to address training, reporting, awareness, and data collection.

### 2.1 Statutory Language

The United States Code defines several terms that may be considered sexual misconduct, but the term “sexual misconduct” is not defined. The FBI explained that it relies on the following code definitions when pursuing cases of in-flight sexual misconduct:

Simple Assault<sup>40</sup> → “[I]n a prosecution for simple assault under 18 USC § 113(a)(5), it is sufficient to show that the defendant

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<sup>38</sup> See Joint Statement attached at Appendix B, p. 11.

<sup>39</sup> See generally, FAA Act.

<sup>40</sup> The statute for simple assault does not include a definition for simple assault, but rather, it sets out the punishment for the crime of simple assault. The common law understanding of the term is that only a showing that the defendant “deliberately touched another in a patently offensive manner without justification or excuse” is required. *United States v. Bayes*, 210 F.3d 64, 69 (2000).

deliberately touched another in a patently offensive manner without justification or excuse.”<sup>41</sup>

Sexual Abuse	→	Causing another to engage in a “sexual act” through threats or fear; OR Engaging in a sexual act with someone incapable of consent or physically incapable of declining participation or communicating unwillingness. <sup>42</sup>  “Sexual act”: requires direct physical contact with genitalia, not through clothing. <sup>43</sup>
Sexual abuse of a minor or ward	→	Whoever knowingly engages in a sexual act with another person who has attained the age of 12 years but has not attained the age of 16 years; and is at least four years younger than the person so engaging. <sup>44</sup>
Aggravated sexual abuse	→	Knowingly causing another person to engage in a sexual act by using force against that other person; or by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping; OR Knowingly rendering another person unconscious and thereby engaging in a sexual act with that other person; or administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct and engaging in a sexual act with that other person. <sup>45</sup>
Abusive Sexual Contact	→	Knowingly engaging in sexual contact with another without permission. <sup>46</sup>  “Sexual contact”: intentional touching, directly or through the clothing, of genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire. <sup>47</sup>

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<sup>41</sup> *Bayes*, 210 F.3d at 69.

<sup>42</sup> 18 U.S.C. § 2242.

<sup>43</sup> 18 U.S.C. § 2246(2).

<sup>44</sup> 18 U.S.C. § 2243.

<sup>45</sup> 18 U.S.C. § 2241.

<sup>46</sup> 18 U.S.C. § 2244.

<sup>47</sup> 18 U.S.C. § 2246(2).

Lewd, indecent, or obscene acts → An obscene or indecent exposure of his or her genitalia or anus, to engage in masturbation, or to engage in a sexual act.<sup>48</sup>

## 2.2 Definitions Used by Commercial Airlines

The Task Force airline representatives reached out to the major U.S. airlines<sup>49</sup> to request information on how they define sexual misconduct. The airlines surveyed represent approximately 95% of all domestic air traffic. The airlines were asked whether or not they define sexual assault or sexual misconduct and if they do not, how those incidents should be defined. Nine out of the fifteen airlines that responded to the survey stated that they define sexual misconduct or sexual assault and shared their definitions with the Task Force.

Airline #1 → Behavior that may include unwelcome sexual advances, requests for sexual favors, verbal remarks or physical conduct of an intimate or sexual nature.

Airline #2 → Sexual misconduct is a broad term encompassing any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation.

Airline #3 → Sexual misconduct is a broad term encompassing any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation.

Sexual misconduct can be committed by a person of any gender, and it can occur between people of the same or different gender while on duty or on Company property. It also extends to off duty and off-property situations if it involves sexual harassment or any conduct of a sexual nature that is without consent, or has the effect of threatening or intimidating the individual.

Airline #4 → Sexual harassment is defined as any unsolicited or unwelcome sexual advance, or other verbal or physical conduct of a sexual nature towards another individual, when submission to the conduct is made explicitly or implicitly a term or condition for employment or interferes with an individual's performance or creates a hostile or offensive work environment.

Sexual harassment includes, but is not limited to:

- Suggestive comments, gestures, threats, or insults.
- Flirting, touching, advances, or propositions.
- The display of sexually suggestive objects or pictures, including texts and emails.

<sup>48</sup> D.C. Code § 22-1312.

<sup>49</sup> The airlines contacted were the 17 U.S. air carriers that have at least 0.5 percent of total domestic scheduled-service passenger revenues. *See* Chapters 4.1, 5.4, and 6.2 for more information on the airline surveys.



- Physical conduct such as assault, unwelcomed touching, blocking normal movement, or interfering with work when such conduct is engaged in on the basis of sex, race, or any other protected basis.

Airline #5 and Airline #6	→	Unwelcome touching or advances of a sexual nature OR Unwelcome touching or sexual assault by another passenger
Airline #7	→	Unwelcome touching or advances sexual in nature.
Airline #8	→	Sexual misconduct is defined under “inappropriate behavior” (sexual or otherwise).
Airline #9	→	Sexual misconduct is the unwelcome touching or advances of a sexual nature, or the inappropriate conduct of a sexual nature.

The remaining six airlines responded that they do not have a definition of sexual misconduct or sexual assault.

Five of the six airlines that do not define sexual misconduct did note, however, that they follow Transportation Security Administration (TSA)-approved security protocols<sup>50</sup>, or other existing procedures to address disruptive passenger behavior when handling incidents of sexual misconduct. One airline stated that incidents of in-flight sexual misconduct fall under the broader definition of “physically abusive behavior” under the TSA security program. Another airline stated that it is in the process of reviewing internal policies, procedures, and training related to sexual misconduct. This airline further stated that it will consider defining terms such as sexual misconduct or sexual assault if it would be helpful for its employees. A third airline stated that while it does not define sexual misconduct or sexual assault, the issue is being addressed through initial and recurrent flight attendant training to raise awareness and facilitate discussion on the best way to handle incidents of sexual misconduct.

The Task Force noted throughout the meetings that increased social activism (such as the “#MeToo” movement) and attention on this issue have resulted in widespread efforts to address sexual misconduct, and have prompted airlines to review their policies and response protocols. In turn, many airlines have indicated a willingness to revise applicable policies and procedures. The Task Force aims to provide guidance on effective ways to do so.

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<sup>50</sup> The TSA-approved security protocols adopted by the airlines contain Sensitive Security Information (SSI) that, if released, would be detrimental to transportation security, as defined by 49 C.F.R. Part 1520. Generally, TSA-approved security protocols focus on whether or not the misconduct at issue may be considered a security threat and do not address passenger-on-passenger misconduct specifically.

## 2.3 Other Definitions Provided by Task Force Members

In addition to airline and statutory definitions relating to sexual misconduct, the Task Force member from a labor organization representing flight attendants presented additional terminology to facilitate the discussion.

Sexual Misconduct	→	Sexual misconduct encompasses a range of behavior used to obtain sexual gratification against another's will or at the expense of another. Sexual misconduct includes sexual harassment, sexual assault, and any conduct of a sexual nature that is without consent, or has the effect of threatening or intimidating the person against whom such conduct is directed.
Sexual Harassment	→	Behavior characterized by the making of unwelcome and inappropriate sexual remarks or physical advances in the workplace or other professional or social situation.
Sexual Assault	→	Unwanted sexual contact that stops short of rape or attempted rape. This includes sexual touching and fondling.

Lastly, the Task Force member representing a national organization that provides services to sexual assault victims, the Rape, Abuse, & Incest National Network (RAINN), shared that RAINN does not define sexual misconduct specifically as the organization uses the term "sexual violence" as an all-encompassing, non-legal term that refers to crimes like sexual assault, rape, and sexual assault. Legal definitions of these crimes vary from State to State, but RAINN shared its definitions relating to sexual violence and harassment.

Sexual Assault	→	<p>The term sexual assault refers to sexual contact or behavior that occurs without explicit consent of the victim. Some forms of sexual assault include:</p> <ul style="list-style-type: none"><li>• Attempted rape</li><li>• Fondling or unwanted sexual touching</li><li>• Forcing a victim to perform sexual acts, such as oral sex or penetrating the perpetrator's body</li><li>• Penetration of the victim's body, also known as rape</li></ul>
Sexual Harassment	→	<p>RAINN's website states that sexual harassment is a broad term, including many types of unwelcome verbal and physical sexual attention, which may include:</p> <ul style="list-style-type: none"><li>• Unwelcome sexual advances</li><li>• Requests for sexual favors</li><li>• Other verbal or physical harassment of a sexual nature</li></ul> <p>It specifically mentions that sexual harassment laws do not generally cover teasing or offhand comments.</p>

## 2.4 Considerations in Defining Sexual Misconduct

The Task Force agreed that a simple, understandable definition with non-legal terminology would be most useful. Therefore, to begin its deliberations, the Task Force rejected the statutory definitions and used a definition provided by an airline as a working model to adapt for its purposes. That definition reads: *“sexual misconduct is a broad term encompassing any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation.”*

Task Force deliberation addressed specific language and terms that could be incorporated into a definition of sexual misconduct.

**“Broad term”:** The Task Force noted that if the definition of sexual misconduct was limited to acts identified in the criminal code, it might not capture incidents of unwelcomed conduct that do not rise to the level of being a crime. However, the Task Force noted that if the definition is too broad, it will capture conduct that perhaps should not be included for purposes of data collection, blurring lines between the roles of airline personnel and law enforcement. The Task Force agreed that a definition that is broad for the purpose of deterring passengers from committing acts of sexual misconduct, but narrow for the purpose of collecting consistent data and providing a consistent baseline for airlines to consult, would be a good balance.

**“Any Behavior or Attempted Behavior”:** The Task Force noted that some of the definitions discussed by the Task Force left out attempted behavior. The Task Force discussed how the definition should encompass any behavior or attempted behavior.

**“Sexual in Nature”:** In trying to define acts of a sexual nature, the Task Force differentiated between touching and non-touching conduct, and discussed examples of each. In the touching category were unwelcome shoulder rubs, repeatedly brushing up against legs or arms, touching or grabbing hips or breasts, and groping/fondling genitalia or the genital region. In the non-touching category, the Task Force noted that making sexual comments, requests, or verbal advances, displaying pornographic material in plain view, “up-skirting” (taking a photograph up someone’s skirt without permission), air-dropping sexually explicit content via cell phones, masturbation, and exposure of genitalia should be captured. The Task Force faced a challenge in coming up with a working definition that encompassed touching and non-touching sexual acts that may not necessarily be crimes, although many are.<sup>51</sup> The Task Force discussed whether making sexual comments, verbal advances, or viewing pornographic material in plain view should be considered sexual misconduct even though most these actions alone may not result in a criminal prosecution.

**“Consent”:** Definitions of consent vary from State to State. However broadly defined, consent is an agreement between participants to engage in sexual activity. In general, there are three main ways States analyze consent in relation to sexual acts - was there affirmative consent? was the

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<sup>51</sup> See, e.g., 18 U.S.C §§ 113, 2242, 2244; D.C. Code § 22-1312.

consent freely given (without fraud, coercion violence, or threats)? and did the individual have the capacity to consent?<sup>52</sup>

**“Without Consent”:** The Task Force discussed that the definition should address actions that are non-consensual and added as acts done by force, intimidation, coercion, or manipulation.

**“Incapable of Consent”:** The Task Force debated the need for a definition that addressed persons with intellectual disabilities, who cannot consent, or individuals who are incapable of consent because of prescription medicine (Xanax, Ambien, etc.) taken to help them sleep and/or reduce anxiety. For that reason, the Task Force considered adding “committed without consent or with someone incapable of consent” to the definition.

**“Physical or Verbal Harassment of a Sexual Nature”:** The Task Force deliberated over concern expressed by a flight attendant that she was verbally harassed by a passenger. The flight attendant described being called a sexually suggestive nickname and asked repeatedly to join the “mile high club.” Although verbal harassment might already be encompassed in the definition of sexual misconduct because it is non-consensual behavior that is sexual in nature, adding the term “physical or verbal harassment” in the definition was important to the Task Force in order to encompass this behavior specifically. The Task Force also recognized that harassment, not only assault, can be physical and wanted to be clear that both are included in the definition.

**“Manipulation”:** The Task Force addressed whether the term “manipulation” was overly broad and appropriate in this context, since manipulation usually takes place over an extended period of time. The law enforcement representatives on the Task Force explained that, in the context of sexual misconduct on an aircraft, the term “manipulation” refers to the process of making a victim think the contact or conversation is normal, and manipulating a situation so sexual misconduct seems less of a crime, and more of a simple mistake (e.g., they wanted it, they were into me, we were both having fun). On an aircraft, this process could last a few minutes or hours. The law enforcement representatives shared examples where a seemingly innocent exchange at the start of the flight leads to physical contact, such as a hand grab or a touch of the knee, and that contact changes from innocent to sexual in nature—either when the victim is awake or asleep.

## 2.5 Definition of Sexual Misconduct

After deliberations, the Task Force produced a working definition of sexual misconduct:

*Sexual misconduct is a broad term. It encompasses any behavior or attempted behavior of a sexual nature that is committed without consent or with someone incapable of consent, or by force, intimidation, coercion, or manipulation. Sexual misconduct also includes physical or verbal advances or harassment of a sexual nature, or public indecent exposure.*

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<sup>52</sup> See Rape, Abuse & Incest National Network, Legal Role of Consent, <https://www.rainn.org/articles/legal-role-consent> (last visited Dec. 12, 2019).

This definition informed the majority of the Task Force discussions about awareness, reporting data collection, and training. This definition is intended to provide context for the recommendations made by the Task Force in this report, as well as to guide airlines and other organizations adopting them in the best way to prevent and respond to incidents of sexual misconduct.<sup>53</sup>

## **2.6 Recommendation on the Definition of Sexual Misconduct**

The Task Force noted that the FAA Act does not define “sexual misconduct” and there is no other federal statute that defines this term. Therefore, the Task Force determined that, to address sexual misconduct aboard passenger aircraft better, there needs to be a definition of the term that the Federal government, the airlines, law enforcement, and passengers can use for the sake of consistency in policies and procedures to handle and report incidents of in-flight sexual misconduct.

Through collaborative discussions, the Task Force reviewed a variety of definitions relating to non-consensual sexual acts. These included statutory definitions, and definitions provided by the airlines, RAINN, and flight attendants unions. The Task Force agreed on the following definition and adopted it for purposes of this report:

***Sexual misconduct is a broad term. It encompasses any behavior or attempted behavior of a sexual nature that is committed without consent or with someone incapable of consent, or by force, intimidation, coercion, or manipulation. Sexual misconduct also includes physical or verbal advances or harassment of a sexual nature, or public indecent exposure.***

***Recommendation:*** Widespread adoption of a standardized definition will facilitate better data collection, reporting, and training within the airline industry. The Task Force encourages airlines to incorporate the Task Force’s definition of sexual misconduct in their operation manuals, training, data collection, and reporting policies and procedures as appropriate.

***Recommendation:*** The Task Force encourages law enforcement responding to reported incidents of in-flight misconduct to be made aware of the Task Force’s definition.

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<sup>53</sup> See *infra*, Chapter 7 for findings and recommendations.

## Chapter 3

### Awareness

*Ms. A stressed the importance of increasing awareness that the FBI has jurisdiction to investigate in-flight sexual misconduct incidents.*

*Ms. A meeting #2*

*Ms. C stated she told an airline representative at the gate what had happened on the plane but was told to speak with customer care. She stated that customer care was unhelpful and she was told that nothing could be done because the incident was not reported on the plane. She stated that she did not know what she should have done to report the incident.*

*Ms. C meeting #2*

Section 338 of the FAA Act expresses the Sense of Congress that airlines should have policies and procedures in place to inform personnel and passengers of their rights with respect to sexual misconduct.<sup>54</sup> The Task Force considers public awareness to be fundamental for reporting. In the course of discussions, it became apparent that when passengers do not know that sexual misconduct may be a crime and are unaware of how to report incidents as soon as they happen, they fail to report (or report belatedly) the incidents to airlines and law enforcement, which limits the possibility for effective responsive action. In addition, it is also important to increase awareness of the potential severity of these incidents within airlines and law enforcement, to ensure that they are aware of appropriate response procedures when faced with such incidents. Therefore, the Task Force discussed ways to enhance passenger awareness of in-flight sexual misconduct and reporting methods. Informing passengers about standards of behavior, airline sexual misconduct policies, and how to report an incident of in-flight sexual misconduct are necessary actions to combat the problem.

### 3.1 Awareness Campaigns by the Government

In April 2018, the FBI launched the *Be Air Aware* campaign to help combat instances of in-flight sexual assault. The FBI designed, produced and distributed posters<sup>55</sup> to airports to be displayed across the United States. The posters state that sexual assault on an aircraft is a federal crime and included the FBI hotline telephone number. The FBI provided the posters to airports in paper and digital form which allowed the airports to customize the poster with local phone numbers. The digital form also gave airports the opportunity to display the poster on their website. The campaign, which cost under \$5,000, alerts potential offenders that sexual assault is a crime and informs victims of a means to report the crime. The *Be Air Aware* campaign raised awareness nationwide, a benefit that outweighed the cost to the Federal government.

In Fiscal Year 2017, there were 63 investigations involving in-flight sexual misconduct. In Fiscal Year 2018, that number rose to 84. During Fiscal Year 2019, the FBI implemented a new designation code specifically for sexual misconduct on board an aircraft to help facilitate better incident tracking, and the number of investigations handled by the FBI rose to 119. The number

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<sup>54</sup> See FAA Act, attached at Appendix A.

<sup>55</sup> See FBI *Be Air Aware* Campaign poster, at Appendix E.

may reflect a higher number of incidents occurring, or a higher number of people reporting incidents of sexual misconduct due to greater awareness as a result of campaigns, such as the *Be Air Aware* campaign which began in 2018, and media reporting on the issue.

DOT's Office of the Secretary has taken steps to raise awareness of the potential criminal nature of incidents of in-flight sexual misconduct and ensure that any reported incidents are referred to the appropriate authorities. In particular, DOT has adopted the Task Force's definition of sexual misconduct and has incorporated this definition into its revised on-line consumer complaint form.<sup>56</sup> The consumer complaint form now states:

#### INCIDENTS OF SEXUAL MISCONDUCT

If your complaint relates to or includes allegations of sexual misconduct, a copy of your complaint will be sent to the FBI. Sexual misconduct is a broad term. It encompasses any behavior or attempted behavior of a sexual nature that is committed without consent or with someone incapable of consent, or by force, intimidation, coercion, or manipulation. Sexual misconduct also includes physical or verbal advances or harassment of a sexual nature, or public indecent exposure.

Ensuring that incidents of in-flight sexual misconduct are reported to the FBI will result in a better understanding of the nature and extent of the problem and increase opportunities to hold offenders accountable.

The FAA will also raise awareness about incidents of in-flight sexual misconduct. The FAA plans to direct users to the FBI when they receive a report of in-flight sexual misconduct. In addition, the FAA recently revised its Compliance and Enforcement Handbook to update the civil penalty sanctions as it relates to in-flight sexual assault as provided in Section 339 of the FAA Act.

### **3.2 Awareness Campaigns by Airports**

The Task Force member representing airports reached out to member airports of Airports Council International-North America to assess existing awareness campaigns (if any) and willingness to engage in awareness campaigns addressing in-flight sexual misconduct.

Out of the over 173-member airports asked to participate in the survey, 18 member airports responded. Regarding ways the airports currently inform passengers about how to report in-flight sexual misconduct, two stated that they share information on the airport website, five stated they share information on signs posted in public areas throughout the airport, and ten stated "none of the above." When asked which entities assist in public awareness campaigns about how to report in-flight sexual misconduct, two stated the FBI, another two airports stated local law enforcement, one stated "other," and the remaining 11 stated "none of the above." Lastly, airports were asked if in the future, they would be willing to inform passengers about how to report incidents of in-flight sexual misconduct. One airport stated they would be willing to do so through airport announcements, eight airports stated they would be willing to put information on

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<sup>56</sup> See <https://www.transportation.gov/airconsumer/file-consumer-complaint>

their airport website, five stated through signs posted in public areas within the airport, and two stated “none of the above.”

The Task Force discussed the benefits of airports supporting the awareness campaign but also acknowledges the challenges mentioned associated with awareness campaigns in airports.

- a. **Competing Interests:** Campaigns against sexual misconduct aboard aircraft are competing against other awareness campaigns. For example, human trafficking and homelessness in airports are both issues that have gained increased attention at airports.
- b. **Private versus Public Space:** Space within airports is divided between commercial and public ad space. The precise division of this space differs from airport to airport. Some airports might have a large amount of space for awareness campaigns while others might not.
- c. **Visual Aspects:** Whether it be digitally or through posters displayed in airports, the word “sexual” might trigger negative imagery if shown on posters throughout airports, especially with young children.
- d. **Effectiveness:** The effectiveness of an airport passenger awareness airport campaign on incidents occurring in-flight would be difficult to measure.

### 3.3 Awareness Campaigns by Airlines

In addition to discussing awareness campaigns in airports, the Task Force also discussed awareness campaigns by airlines. The Task Force airline representatives reached out to the largest U.S. airlines to request information on their practices and procedures, as they related to incidents of sexual misconduct. The airlines surveyed account for approximately 95% of the domestic air traffic in the United States. Eleven out of seventeen airlines responded to the portion of the survey related to awareness.<sup>57</sup> When asked how airlines currently inform passengers about how to report incidents of in-flight sexual misconduct, one airline stated it informs passengers about how to report incidents of in-flight sexual misconduct through its website, and the remaining ten stated they currently do not inform passengers about how to report incidents of in-flight sexual misconduct. The survey had asked whether airlines inform passengers on how to report in-flight sexual misconduct incidents through the use of onboard announcements, airline apps, airline in-flight magazines, or seat back pocket brochures. The Task Force is aware of one airline that informs passengers about how to report incidents of in-flight sexual misconduct through the use of onboard announcement.

When the surveyed airlines were asked if they would be willing, in the future, to inform passengers on how to report an incident of in-flight sexual misconduct through onboard announcement, airline apps, airline in-flight magazines or seat back pocket brochures, most of them responded that they would not.

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<sup>57</sup> Questions seeking information on airline practices to inform passengers about how incidents of sexual misconduct may be reported were included in the survey of airlines focused on reporting practices because the Task Force considered awareness a precursor to reporting.



Figure 1 below provides greater detail.

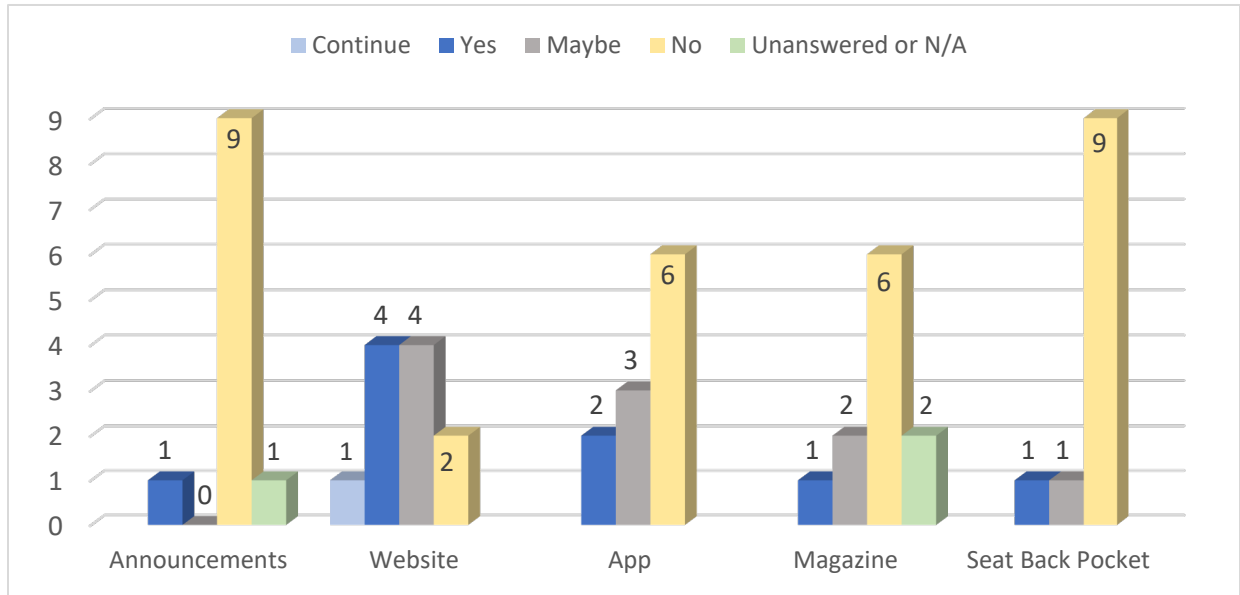


Figure 1: Airline Survey on Reporting Practices (Willingness to Inform Passengers on Reporting)<sup>58</sup>

The Task Force discussed the effectiveness of each means of communication with passengers.

- a. **Onboard Announcements:** The survey indicated that airlines are not willing to include information about how to report incidents of sexual misconduct through onboard announcements, as illustrated in Figure 1. The Task Force noted that a representative from Alaska Airlines spoke at a Task Force meeting about the airlines' current practices in combating in-flight sexual misconduct. The representative explained that Alaska Airlines currently makes in-flight announcements directing passengers to reach out to flight attendants when they observe or experience unwelcome behavior.

Alaska Airlines' announcement is as follows: "Federal law requires you to comply with all crewmember instructions, lighted signs, and posted placards. Your safety and well-being are important to us. Please report any unwelcome behavior to a crewmember. Smoking, vaping, using chewing tobacco, and consuming your own alcohol are prohibited ... as are tampering with, disabling, or destroying lavatory smoke detectors."

The Task Force noted that an onboard announcement like this might be a good option for an airline that wishes to relay the message that flight attendants can assist passengers if they are subjected to unwelcome behavior on the aircraft.

- b. Information in the Seat Back Pocket:** The Task Force discussed the option of airlines providing material in the seat back pocket to inform passengers that sexual misconduct is prohibited by including adding information in the in-flight magazine, or having a separate brochure or leaflet in the seat back pocket.

In 2015, the International Air Transport Association (IATA), a trade association representing 290 airlines, released a report titled “Guidance on Unruly Passenger Prevention and Management.”<sup>59</sup> The primary purpose of the report was to emphasize prevention, management, and deterrence measures for unruly passengers aboard aircraft. The report included a passenger awareness leaflet<sup>60</sup> that could potentially be used by airlines to promote the safety and security of all passengers.

The leaflet itself describes unruly behavior that is prohibited in-flight, and provides examples of offensive acts such as harassment, verbal abuse, physical assault, and sexual offenses/lewd behavior. Additionally, the leaflet includes friendly pictograms to illustrate what offensive acts to avoid. Adding awareness materials like this in a seat back pocket might be helpful in determining what behavior is prohibited on an aircraft. Moreover, this is a good example of multiple issues being addressed in one document.

Currently, Alaska Airlines is the only airline that addresses sexual misconduct in its in-flight magazine under “Crew and Guest Safety” and states its zero-tolerance policy on verbal, digital, or physical harassment of any kind including sexual harassment.<sup>61</sup> In addition, the Alaska Airlines notice states that any unwelcome behavior should be reported to an employee immediately. As such, it describes the policy in writing, and flight attendants can present the policy to an alleged offender to persuade them to discontinue inappropriate behavior.

- c. Airline Website/App:** The Task Force discussed various electronic platforms that could be used for awareness campaigns such as the airline’s primary website, webpages, or pop ups related to accessing in-flight Wi-Fi or entertainment devices (accessed on the aircraft), and airline apps. As noted in the survey and illustrated in Figure 1, one airline uses its airline website to inform passengers on how to report an incident of in-flight sexual misconduct, however, none of the airlines that responded indicated that they share such information through their mobile app.

The survey also asked airlines if they would be willing to share information on how to report incidents of sexual misconduct. Six airlines responded that they would be willing to share such information via their website or app, and seven indicated that they would consider sharing such information via their website or app. To the extent airlines are willing to post resources to their websites and/or apps, this could be an efficient and non-invasive way of increasing passenger awareness.

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<sup>59</sup> IATA UNRULY PASSENGER PREVENTION AND MANAGEMENT 2ND EDITION, JANUARY 2015.

<sup>60</sup> See Appendix G, IATA Sample Passenger Awareness Leaflet, Appendix K, IATA UNRULY PASSENGER PREVENTION AND MANAGEMENT.

<sup>61</sup> See Alaska Airlines in-flight magazine excerpt, at Appendix F.

- d. **Resource Card:** The Task Force discussed having resource cards available for victims with information on what to look for in identifying sexual misconduct on a flight, how to report the incident to the appropriate authorities, and what victim support services are available for the passenger through the airline, law enforcement, or non-profit organizations.

The FBI shared a pocket-sized resource card for active shooter incidents<sup>62</sup> as an example and the Task Force discussed the merits of developing a similar resource card for incidents of sexual misconduct. Having a small, physical reminder of the options available either in the seatback pocket, at airline gates, or for flight attendants and other airline personnel to hand out to passengers reporting sexual misconduct in flight or after landing could increase awareness, enable greater support of victims, and improve reporting outcomes. To the extent that airlines are willing to share resources on their website or apps, it would be possible for this resource card to be shared electronically as well.

- e. **Passenger Code of Conduct:** The Task Force discussed whether a passenger code of conduct might be an appropriate recommendation. A code of conduct would highlight the importance of appropriate conduct on flights and document what is expected out of each passenger and what will not be tolerated. In addition, that passenger code of conduct could be provided on a website, when purchasing a ticket, or even contained in the in-flight magazine. The airline survey did not ask if the airlines have codes of conduct in place, or if they would be willing to do so. However, one airline indicated an interest in developing a code of conduct that would incorporate issues relating to sexual misconduct and another suggested that it would include such language in its contract of carriage. Although airlines have rules against unruly passengers, the Task Force is not aware of any airline that has adopted passenger “codes of conduct” to address the issue of in-flight sexual misconduct. The Task Force noted that others in the transportation industry have adopted codes of conduct that patrons must abide by while using their service.<sup>63</sup>
- f. **Passenger Survey:** The Task Force discussed the feasibility of post-flight passenger surveys sent out via email as a way to raise awareness about in-flight sexual misconduct while also enhancing data collection. Airline representatives noted that individual airlines surveys are rare and are usually to assess passenger experiences, but industry wide surveys are conducted annually. The Task Force discussed whether a survey on sexual misconduct may make people uncomfortable and ways to adapt surveys to incentivize participation. Additional discussion on the use of passenger surveys focused on the data collection aspect, and is addressed in that section.

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<sup>62</sup> See U.S. DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION, Active Shooter Event Quick Reference Guide attached at Appendix H.

<sup>63</sup> See e.g., Uber Community Guidelines (<https://www.uber.com/legal/community-guidelines/us-can-en/>); see also Los Angeles County Metropolitan Transportation Authority ([https://media.metro.net/about\\_us/ethics/images/codeofconduct\\_customer.pdf](https://media.metro.net/about_us/ethics/images/codeofconduct_customer.pdf)).

### 3.4 Challenges to Awareness Campaigns by Airlines

In response to the survey, airlines noted a few anticipated challenges to sharing information with passengers about how to report incidents of in-flight sexual misconduct:

- Perception that sexual misconduct is common or the issue impacts only that airline (i.e., it is not industry wide).
- Passenger facing material and/or content is controlled by mainline partners (fee for service carriers lack control over decision making about what information is communicated to passengers).

The Task Force discussed these and other challenges airlines and passengers might face in regard to awareness campaigns on airplanes.

- a. Onboard Announcements:** In response to the survey, airlines indicated that current in-flight announcements are lengthy and the cost of re-doing an in-flight announcement video is steep. Additionally, airlines expressed concern that including “in-flight sexual misconduct” in the in-flight announcement could create a negative atmosphere for passengers, and open the floodgates for additional in-flight announcements. The airline representatives also stated that there are equally important issues involving airline travel (e.g., human trafficking), and expressed concern that too much information would overload passengers and dilute the message. Ultimately, airlines stated that in-flight announcements serve the primary purpose of informing passengers about in-flight safety.
- b. Information in the Seat Back Pocket:** The airline representatives shared with the Task Force that current sustainability efforts in the airline industry to reduce unnecessary weight are leading to less paper on airplanes and the possibility that airlines might get rid of in-flight magazines as a whole. Furthermore, the Task Force discussed that, as passengers spend more time reading material on electronic devices, including information in the in-flight magazines or brochures in the seat back pocket might not be effective. Similar sustainability concerns were raised about physical copies of the resource card. The Task Force also discussed whether it is reasonable to burden flight attendants with the additional responsibility of keeping and distributing the cards.
- c. Passenger Code of Conduct:** The Task Force members discussed the feasibility of a standard code of conduct and noted that lack of a standard code of conduct across the industry may be problematic. Determining where it should be displayed and how it would be enforced would also be up to individual airlines, reinforcing the lack of standardization.
- d. Airline Website/App:** Airline representatives also raised a concern that information on airline websites/apps would create a negative perception of flying and mislead passengers about the prevalence of sexual misconduct. Airlines indicated that having sexual misconduct so prominently displayed defeats goals relating to customer service and sense of security.
- e. Passenger Surveys:** Each airline develops passenger surveys independently, meaning that there is no common methodology to survey passengers. Without that consistency across

airlines, passengers may receive conflicting information about various airline policies, which could increase confusion rather than awareness. Data collection for public use could also be hindered by this inconsistency, although airlines would have more information to inform their own internal training and reporting processes.

### **3.5 Recommendations on Awareness**

The Task Force addressed passenger awareness of sexual misconduct because it is an aspect of the reporting process. Awareness campaigns are intended both to deter offenders and to inform victims of available resources (including recourse), how to report incidents and the availability of victim support services. Options for awareness campaigns include in-flight verbal or video announcements, inclusion of information in the in-flight magazine or other seat back pocket materials, posters or other signage, adopting and posting a passenger code of conduct (which may include the definition of sexual misconduct and the existence of civil and criminal consequences), and/or posting resources or statements on websites or Wi-Fi landing pages.

In its discussions, the Task Force recognized the challenges to awareness programs but determined that these educational and awareness efforts are vital to achieving better training, reporting and data collection outcomes.

***Recommendation:*** Airlines, airports, and appropriate Federal agencies should engage in awareness campaigns. The Task Force recognizes that there are various methods for the airlines to do so and encourages airlines to consider the methods mentioned in this chapter and use the methods that best fit with their policies and practices on sexual misconduct. Federal agencies should also take steps to ensure that passengers are aware that acts of sexual misconduct are punishable under Federal law, subject to civil penalties, and raise awareness of how incidents involving in-flight sexual misconduct should be reported.

## **Chapter 4**

### **Reporting**

*Ms. C shared that she was told that the airline could do nothing about the sexual misconduct incident because she failed to report the incident to a flight attendant during the flight.*

*Ms. C meeting #2*

*Ms. D stated that when a passenger grabbed her breasts she told a crew member, a flight officer, and a supervisor what happened to her and filed an incident report. Ms. D describes her frustration when she was told months later that nothing could be done because she never filed a police report.*

*Ms. D meeting #2*

*Ms. B stated that at one point she was more upset and frustrated with the airline's corporate representatives than with the man who groped her on the plane. She said that the airline made her feel like she was making it up.*

*Ms. B meeting #2*

Section 338 of the FAA Act expresses the Sense of Congress that airlines should have policies and procedures in place to report incidents of sexual misconduct to law enforcement. Section 339A requires the establishment of the Task Force to review and evaluate current air carrier reporting practices, protocols, and requirements in responding to allegations of sexual misconduct by passengers onboard aircraft. It also specifies that the Task Force is to provide recommendations on reporting allegations of sexual misconduct occurring on passenger airline flights that are informed by the Task Force's review of airline practices and first-hand accounts from passengers who have experienced sexual misconduct onboard aircraft.

The Task Force heard directly from individuals who experienced incidents of in-flight sexual misconduct and reported these incidents to a flight attendant during the flight or to another airline representative after landing. The Task Force learned that incidents of sexual misconduct may occur at times when it is not feasible to report them immediately, such as when an aircraft is in descent prior to landing and flight attendants have taken their seats. The Task Force also recognized that individuals may react to traumatizing events in different ways (fight-flight-freeze response) and some may need time to process the situation. For these reasons, delayed reporting is not uncommon.

The Task Force also reviewed passenger complaints (submitted to DOT and the FBI) alleging in-flight sexual misconduct and examined the process of reporting such incidents. Furthermore, the Task Force surveyed the major U.S. airlines on their current reporting practices to identify areas that could be enhanced to ensure that incidents of in-flight sexual misconduct are identified and addressed. Finally, the Task Force considered recommendations made by a consumer rights organization, not represented on the Task Force, regarding the importance of a reporting system.

#### **4.1 Airline Information Survey on Reporting Practices**

To assist the Task Force in understanding and evaluating current reporting practices used by air carriers, the Task Force airline representatives reached out to the major U.S. airlines to request

information on their reporting practices. The airlines surveyed make up approximately 95% of the domestic air traffic in the United States. The survey focused on airlines' current reporting practices and their willingness to change their reporting practices. The airlines were also asked to identify potential challenges to changing their reporting practices.

Eleven airlines<sup>64</sup> responded to the reporting practices survey, and the general findings from that survey are described below.

**a. Obtaining Information About the Incident:** The survey asked how airlines learn about incidents of sexual misconduct onboard the aircraft and how they collect this information. In response to the question, airlines shared that they learn of incidents of in-flight sexual misconduct from passengers in several ways:

- verbal discussions with a flight attendant;
- written note aboard the aircraft;
- complaints to gate agents or customer service representatives;
- social media;
- DOT/Federal Aviation Administration hotline;
- pilots contacting dispatch; and
- cabin walkthroughs.

Airlines noted that they currently face or foresee certain challenges in obtaining information regarding incidents of in-flight sexual misconduct from passengers. These challenges include:

- lack of privacy on board to capture pertinent information;
- lack of training for appropriately engaging other possible witnesses to minimize “he-said, she-said” situations;
- risk of passenger discomfort or false allegation;
- placing flight attendant in the role of law enforcement;
- unwillingness of passenger to provide sensitive information;
- involving employees in potential legal action to record or report information; and
- risk of escalating the situation on board the aircraft, as passengers are not required to show or present identification.

**b. Obtaining Alleged Offender Contact Information:** Airlines were asked how they collect the identity and contact information of the alleged offender of sexual misconduct and offered several options:

- Obtain information directly from the alleged offender on board;
- Contact law enforcement to meet the aircraft and rely on law enforcement to obtain information;
- Use seat map and reservation information;
- Other; or
- None of the above.

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<sup>64</sup> Although 11 airlines responded to the survey, some airlines did not respond to every question.

Eleven airlines responded to this question. As Figure 2 illustrates, virtually all the airlines rely on law enforcement to obtain the information, some use seat map and reservation information, but very few obtain the information directly from the alleged offender.

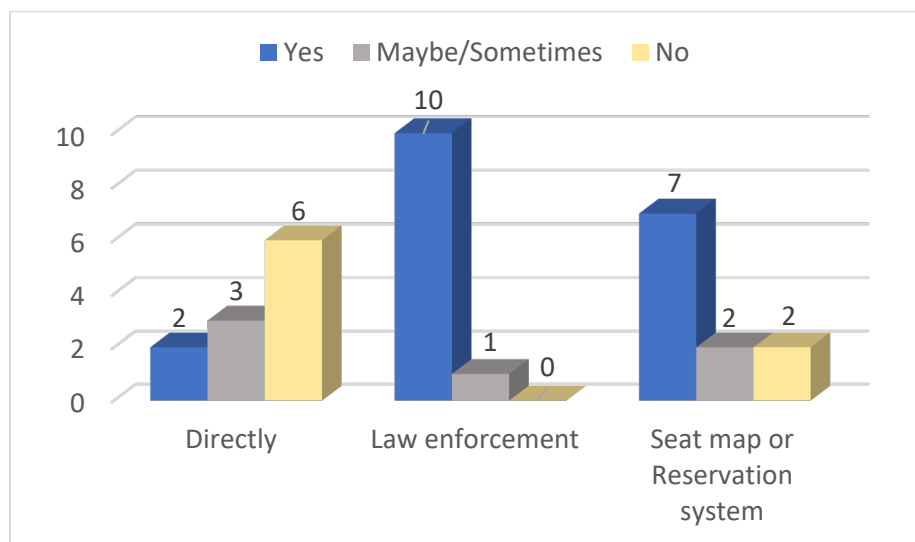


Figure 2: Airline Survey on Reporting Practices (Ways to collect identity and contact information)<sup>65</sup>

When asked how the airlines would consider collecting the identity and contact information of the alleged offender in the future, most of the airlines responded that they would be willing to continue their existing practices to contact law enforcement to obtain the information, and use seat map or reservation information. Airlines do not always collect identity and contact information directly from the alleged offender. Nine airlines responded that they would not consider changing their practice.

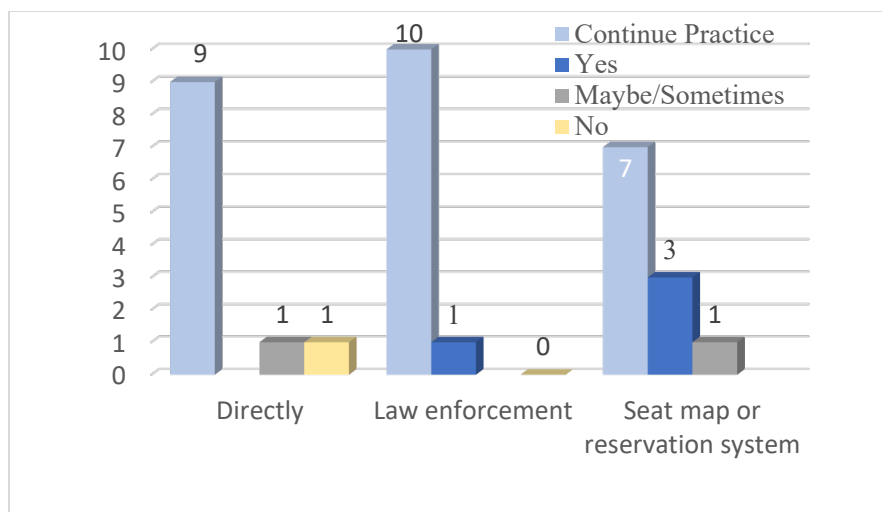


Figure 3: Airline Survey on Reporting Practices (Willingness to collect information)<sup>66</sup>

<sup>65</sup> Eleven airlines responded to this question.

<sup>66</sup> Eleven airlines responded to this question.



c. **Contacting Law Enforcement – Incident Reported During Flight:** The airlines were asked if they contact law enforcement to report incidents that may not involve the physical touching of others, such as:

- Making sexual comments;
- Displaying indecent materials (e.g., pornography);
- Engaging in sex act in presence of others (e.g., masturbation);
- Taking picture or video of someone’s sexual body part without consent (e.g., down shirt, up skirt);
- Engaging in indecent exposure (e.g., exposing genitals);
- Making sexually explicit gestures; and
- Other.

The airlines’ responses demonstrate that most of them currently contact law enforcement for these types of incidents. Figure 4 provides greater detail.

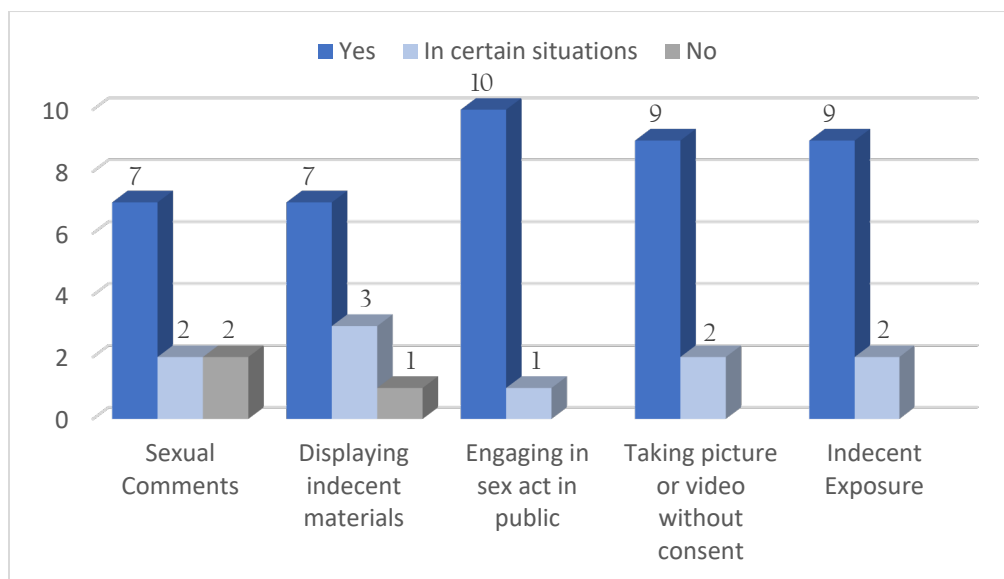


Figure 4: Airline Survey on Reporting Practices (Contacting Law Enforcement for non-touching incidents)<sup>67</sup>

When asked whether the airlines would consider contacting law enforcement in the future for these actions, virtually all the airlines stated that they would. They either already do so and plan to continue this practice or would be willing to do so in the future, as illustrated in Figure 5.

<sup>67</sup> Eleven airlines responded to this question.

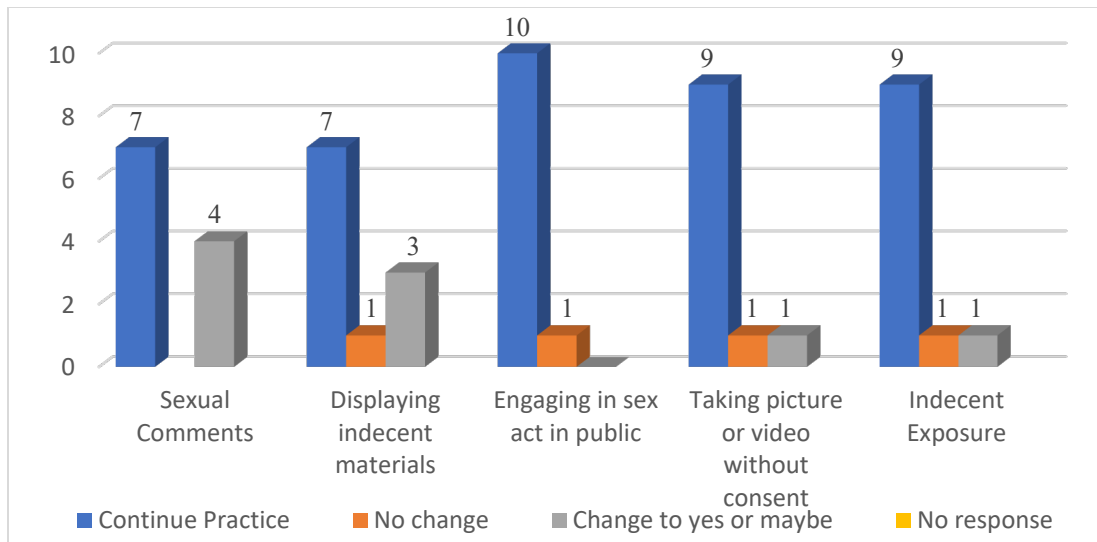


Figure 5: Airline Survey on Reporting Practices (Contacting Law Enforcement for non-touching incidents)<sup>68</sup>

- d. **Contacting Law Enforcement – Incident Reported After Aircraft Landed:** Airlines were asked how often they report incidents to law enforcement when they learn of them after the aircraft has landed. Only one airline stated that it always contacts law enforcement when it becomes aware of a sexual misconduct incident after the aircraft has landed. Only six airlines responded to this question, as illustrated in Figure 6.

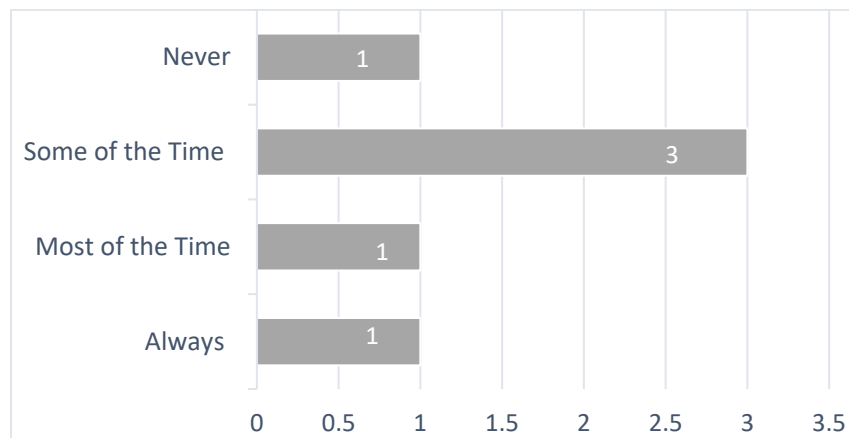


Figure 6: Airline Survey on Reporting Practices (Informing law enforcement about later reported incidents)<sup>69</sup>

Airlines were also asked what factors they take into consideration when determining whether to contact law enforcement for later-reported incidents of in-flight sexual misconduct. The survey results showed that the passenger's preference and the apparent severity of the incident were the two factors that most impacted the airlines' decision on whether to contact law enforcement. Other factors that were considered include the availability of information, ability to follow up with passenger, and the amount of time since the incident.

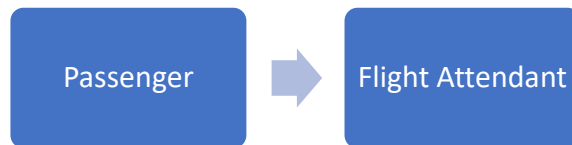
<sup>68</sup> Eleven airlines responded to this question.

<sup>69</sup> Six airlines responded to this question.



Figure 7: Airline Survey on Reporting Practices (Reasons airlines do not report incidents)<sup>70</sup>

#### 4.2 Reporting by Passengers Who Experience In-Flight Sexual Misconduct



Based on data obtained through the airline survey, the Task Force learned that airlines become aware of incidents of in-flight sexual misconduct through passengers, who most often report to the flight attendant verbally. Nevertheless, the Task Force recognized that passenger preferences on how to report vary. For example, during the listening session one individual shared with the Task Force that after she experienced an incident of sexual misconduct, she reported it to the flight attendant and was asked to repeat what had happened to multiple flight attendants in the galley. She commented that sharing the details in a place that lacked privacy was hard and embarrassing and that it was difficult to repeat it over and over. However, she also stated that she did not think that writing it down at that time would have been helpful either. She stated that she needed time to process what had just happened. In contrast, another passenger expressed a strong opinion that airlines should have provided her a way to relay the incident to the airline in writing.

Due to the confined space and likelihood of other people overhearing the conversation, some victims may prefer to write things down. A written communication provides a private way to alert a flight attendant about what has transpired and also allows for passengers to report incidents when they may not feel safe to do so verbally. It also prevents the repeated retelling of the incident which may re-traumatize the victim.

There are a number of challenges to reporting incidents of sexual misconduct in writing. As a practical matter, the Task Force noted that airlines do not always have a pen and paper onboard to offer to an individual. The Task Force also discussed the feasibility of capturing this information through the use of electronic devices or an online reporting mechanism, but recognized that Wi-Fi may not always be accessible in-flight. The Task Force also discussed the

<sup>70</sup> Six airlines responded to this question.

possibility that a written statement could be used against the victim in a future legal proceeding. The Task Force's law enforcement representatives stated that most people do not write down their account because they are still calming down from the event. Some Task Force members noted that, although passengers generally report incidents of sexual misconduct verbally, airlines should permit victims to present the information in the way that is most comfortable to them.

The Task Force also considered how passengers with limited English proficiency could report incidents of in-flight sexual misconduct. The Task Force learned that airlines have access to interpreters and often staff their flights with multilingual flight attendants that speak the language of the destination and origin cities. There was discussion about airlines considering requesting passengers provide a written account of the incident in their own language, which could be translated later, if the flight does not have a multilingual crew.

#### **4.3 Identifying Alleged Offender and Potential Witnesses**

There are several ways in which airlines can determine the identity of an alleged offender or witness, including by asking for identification in-person or through an available seat map.

Airlines may request a passenger's boarding pass as a form of identification. A boarding pass has vital passenger information, such as the passenger's name and seat assignment, which the cabin crew needs to file an incident report or call the authorities. Requesting a boarding pass may be the least confrontational option as it is not unusual for flight attendants to request the document. However, the Task Force recognized that there are drawbacks to requesting to see a passenger's boarding pass. Many people now use digital boarding passes on their mobile devices, which cannot be collected. In addition, airlines are moving toward using biometric technology that could replace boarding passes in the future.

Requesting to see a passenger's government issued identification, such as a driver's license or passport, is another option, because it provides detailed information and is not an unusual or new method of identification. In fact, the Task Force member representing flight attendants noted that if a passenger is suspected of tampering with a smoke detector, the flight attendants are told to request the person's government-issued identification to proceed with an incident report. The Task Force's law enforcement members affirmed that flight attendants often obtain the alleged offender's contact information and provide it to law enforcement, and that they believe this happens more often than the airline survey reflects.

If the flight attendant is not able to ascertain the identity of the alleged offender or witness by requesting to see his or her boarding pass or a form of identification, a seat map is the next best option to obtain this information. The seat map includes the name of every passenger and a corresponding seat number. The Task Force's airline representatives shared that flights are often completely booked, with no seats open, and seating fees and fare class restrictions limit the amount a passenger can change seats in-flight. However, this method also has a few drawbacks. If a flight is not full, individuals may still change seats and it is incumbent upon the flight attendant to check their boarding pass to confirm their seat. Also, not all airlines have assigned seating, and therefore, in certain circumstances, flight attendants will not be able to identify

passengers using a seat map. Although the cabin crew may have access to a flight manifest, it would be difficult to determine the identity of a passenger from a list of names.

The Task Force discussed the importance of flight attendants gathering contact information from the alleged offender and witnesses to the incidents to strengthen law enforcement's ability to pursue and resolve the case. The Task Force noted that while obtaining contact information, flight attendants should avoid full interview-type discussions with the alleged offender or witness because law enforcement is trained to conduct interviews. The Task Force's flight attendant representative shared that some on-board manuals may require that law enforcement be asked to meet the aircraft if a passenger fails to provide identification upon request.

#### 4.4 Requesting Law Enforcement Assistance for Incidents Reported Onboard



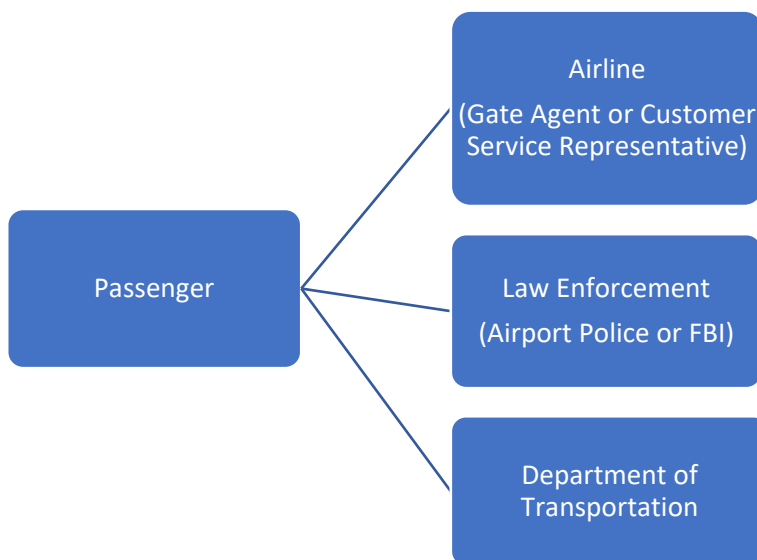
The Task Force learned that after a flight attendant becomes aware of an incident of sexual misconduct, the flight attendant informs the captain. The captain then determines whether to report the incident to the ground security and if law enforcement should be asked to meet the aircraft upon arrival.

In determining whether law enforcement should be contacted, pilots consider whether the incident involved physical contact. When an incident involves physical contact, airlines have stated that they report it to law enforcement and request that law enforcement meet the aircraft at the gate. Incidents that do not involve physical contact are harder to identify as sexual misconduct. Although the airline survey indicated that airlines do inform law enforcement of incidents of sexual misconduct where there is no physical contact, law enforcement representatives shared that this response was not consistent with their experience.

Some Task Force members expressed uncertainty about whether airlines should contact law enforcement for sexual misconduct incidents that do not rise to the level of physical touching including making sexual comments, displaying indecent material, engaging in sex acts in the presence of others, taking pictures or videos of someone's sexual body parts, engaging in indecent exposure, and making sexually suggestive gestures. The airline survey reflected a willingness on the part of airlines to call law enforcement for certain types of incidents (e.g. public sex acts, indecent exposure, and taking pictures or videos without consent). The survey reflected less of a willingness to call law enforcement for incidents involving sexual comments and displaying indecent materials. Law enforcement representatives on the Task Force reiterated that law enforcement should also be contacted for incidents of sexual misconduct that do not involve physical contact.

The Task Force agreed that flight attendants should not take on the role of law enforcement by determining whether or not a crime has occurred. The Task Force members representing law enforcement emphasized that every in-flight sexual misconduct incident should be reported to law enforcement so that law enforcement can make the determination as to whether the incident constitutes a crime. This would also ensure that all incidents are properly investigated.

#### 4.5 Reporting Incidents of Sexual Misconduct After Landing



The individuals who shared their experiences at the Task Force’s listening sessions expressed various challenges, including not knowing how to report an incident as well as being dismissed when attempting to report an incident after landing. The Task Force considered reasons that passengers may report an incident of in-flight sexual misconduct after the flight has landed. For example, an incident that occurs during a critical phase of flight, such as landing, may not be reported immediately to a flight attendant. Ideally, if the incident is reported to the flight attendant while passengers are onboard, the flight crew could delay deplaning to address the incident. However, it is more likely that the incident would be reported to a gate agent or customer service agent. The Task Force discussed the experience shared during one of its listening sessions, where an individual stated that the passenger next to her was masturbating during the flight’s descent while the seat-belt sign was on and she could not get up to inform the flight attendant. This individual also did not feel comfortable reporting the incident to the flight attendant while exiting the aircraft because the offending passenger was behind her. She reported the incident to the airline staff at the gate.

The Task Force also recognized that people may react to traumatizing events in different ways (fight-flight-freeze response) and some may need time to process the situation, resulting in passengers not disclosing their experience on board the flight immediately after it happens. The airline survey indicated that when passengers do report incidents of in-flight sexual misconduct after the flight has landed, they usually inform an airline representative on the ground, report the incident to law enforcement, or submit a complaint to DOT.

The Task Force considered what an appropriate airline response would be for incidents of in-flight sexual misconduct reported after landing. The Task Force's law enforcement representatives stated that passengers should be referred to the FBI or local law enforcement as soon as possible.

If airlines do not have a process available for capturing incidents of in-flight sexual misconduct reported after the aircraft has landed and referring such incident to law enforcement, then the alleged offenders are less likely to be investigated and may commit similar acts in the future. In addition, lack of reporting increases gaps in the in-flight sexual misconduct data being collected by the FBI, making it less reliable.

The Task Force discussed each airline having its own policy regarding what steps to take when someone reports an incident of in-flight sexual misconduct after the aircraft has landed. Some passengers reach out either to a gate agent or to a customer service representative, who should report the account to law enforcement either through the airline's internal security or directly. The Task Force generally agreed that when contacted by a victim of in-flight sexual misconduct after the plane has landed, the airline should contact law enforcement directly and refer the passenger to the FBI phone number presented on the *Be Air Aware* campaign poster, 1-800-CALL-FBI.<sup>71</sup>

In addition, some victims report to sources other than airlines – for example, DOT, airport police, or local law enforcement. DOT receives passenger complaints on various issues, including incidents of in-flight sexual misconduct, through the Office of Aviation Enforcement. The Office of Aviation Enforcement does not have jurisdiction to investigate criminal matters and now sends the complaints it receives alleging in-flight sexual misconduct to the FBI. Previously, that office informed consumers how to contact the FBI but did not forward such complaints to the FBI.

The FAA may also learn of incidents of in-flight sexual misconduct. When a pilot reports an incident of in-flight sexual misconduct to the airline's ground operations, ground operations may relay that information to air traffic control (ATC).<sup>72</sup> If ATC learns of an incident from an airline, specifically an incident where law enforcement officers are asked to meet the aircraft, the information is relayed to the Domestic Events Network, and is also reported to the FAA's Washington Operations Center. The DEN is a 24/7 FAA-sponsored recorded telephonic conference call network that includes all of the Air Route Traffic Control Centers in the United States. The purpose of the Domestic Events Network is to provide timely notification to the appropriate authorities that there is an emerging air or ground related problem or incident involving the National Air Space. Generally, the FAA's Washington Operations Center distributes information about in-flight incidents to various government agencies. Incidents of in-flight sexual misconduct that are reported to ATC are shared with the FBI and the appropriate FAA Regional Operations Center, where the matter may be referred to an FAA Aviation Safety Inspector for investigation.

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<sup>71</sup> See Appendix E.

<sup>72</sup> See *supra* footnote 17 for note on ground operations.

In addition to the ATC reporting process, individuals may submit complaints through the FAA Hotline. When a complaint alleges an incident of sexual assault or interference with a pilot or flight attendant, the complaint is sent to the Law Enforcement Assistance Program in the FAA's Office of Security & Hazardous Material Safety. In the context of incidents of in-flight sexual misconduct, the role of the Law Enforcement Assistance Program is to provide aviation-related support to law enforcement agencies seeking criminal prosecution. If the incident involves a potential criminal matter, the complaint is sent to DOT's OIG for possible referral to the FBI. Currently, the Law Enforcement Assistance Program does not refer incidents of in-flight sexual misconduct to FAA Aviation Safety Inspectors for investigation.

FAA Aviation Safety Inspectors may learn of incidents of in-flight sexual misconduct through the FAA Regional Operations Center reports, during routine air carrier inspections, or through air carrier reports submitted to the FAA. Those reports would be assigned to an FAA Aviation Safety Inspector for investigation of potential violations of federal statutes and regulations relating to interference with the pilot or flight attendant(s).<sup>73</sup> If the investigating inspector believes there is adequate evidence to prove a violation, a report with evidence is compiled, logged into the FAA's Enforcement Information System, assigned a case number, and ultimately handled under appropriate agency enforcement policies. Typically, such cases would be referred to the FAA's legal office for consideration of enforcement action in the form of a civil penalty.

Finally, some victims report directly to local law enforcement or airport police. The Task Force suggested that training local police and airport police to report cases to the FBI and developing standard operating procedures could help improve coordination and address underreporting of such incidents by the FBI.

#### **4.6 Incidents Involving Minors**

Although neither the Federal government nor the airline industry collect data on the number of incidents of in-flight sexual misconduct involving minors, the Task Force recognized that minors may be particularly vulnerable. The Task Force discussed unaccompanied minors in particular and airline protocols for their transport, such as seating assignments.<sup>74</sup> At a Task Force listening session, a flight attendant shared an incident where a three-year old boy, who was seated next to his father, was touched inappropriately by another passenger seated behind him. The flight attendant intervened and had the passenger moved to another seat. The flight attendant then informed the captain, who asked for law enforcement to meet the aircraft on arrival. This incident highlights how an in-flight sexual misconduct incident involving a minor is handled.

#### **4.7 Recommendations on Reporting**

The Task Force considered ways to enhance reporting of in-flight sexual misconduct. The Task Force discussed and analyzed airlines' current reporting practices, including how airlines address

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<sup>73</sup> See 49 U.S.C. § 46318 and 14 C.F.R. Part 91.11.

<sup>74</sup> During its review of this Report, HHS noted that while there are no DOT regulations concerning travel by unaccompanied minors, DOT provides on its website a booklet summarizing some of the most common airline policies to protect the well-being of children flying by themselves. That booklet is available at [https://www.transportation.gov/sites/dot.dev/files/docs/Kids\\_Fly\\_Alone.pdf](https://www.transportation.gov/sites/dot.dev/files/docs/Kids_Fly_Alone.pdf).



privacy concerns on an aircraft, the role of flight attendants versus law enforcement, passenger discomfort in reporting incidents and delays in passenger reporting. The Task Force also considered how other entities such as DOT or local law enforcement respond to allegations or reports of sexual misconduct by passengers onboard aircraft.

1. **Enable Passengers to Report Incidents in Various Ways:** The Task Force explored various passenger reporting methods, which led to discussions of certain methods that may re-traumatize victims, the fight-flight-freeze response that victims may experience, the possibility that misconduct could occur at times when it is not feasible to report it immediately, and airlines' practices and procedures for accepting passenger reports of sexual misconduct after the plane has landed.

***Recommendation:*** The Task Force encourages airlines to establish clear policies and procedures around reporting methods to enable the airline to accept and appropriately respond to passenger reports of sexual misconduct whether the airline learns of it on the aircraft or after the aircraft has landed, and disseminate the information as appropriate. Additionally, the Task Force suggests airlines consider allowing passengers more than one way to report such incidents to allow passengers to select the method that is most comfortable for them.

2. **Obtain Alleged Offender and Witness Contact Information:** In order for the FBI to successfully investigate and resolve a case involving an incident of in-flight sexual misconduct, in addition to the victim's contact information, the identity and contact information of the alleged offender and any witnesses to the incident are crucial. There are several ways that such information can be obtained, including requesting a passengers' boarding pass or government issued identification, or consulting the seat map (if available). The Task Force noted that while obtaining contact information, flight attendants should avoid interviewing the alleged offender or witness and leave it to law enforcement who are trained to conduct interviews.

***Recommendation:*** The Task Force recommends that airlines have a procedure to identify and to obtain the contact information of the alleged offender and any witnesses to provide to law enforcement to help support the investigation. Applicable employees should be trained on the policy and procedure around the collection of the information.

3. **Segregate Sexual Misconduct Incidents in Airline Records:** Whenever an incident involving passengers occurs on an aircraft, most airlines require the flight attendant to file an incident or irregularity report with the details of the incident. However, the Task Force found that these forms rarely allow for the identification of "sexual misconduct," which contributes to the difficulty in identifying data points and establishing the prevalence of sexual misconduct. The Task Force discussed whether airline incident or irregularity reports should include a subcategory for in-flight sexual misconduct incidents involving minors, indicate if the passengers were intoxicated or other relevant information. The Task Force also noted that Federal regulations do not require airlines to maintain incident or irregularity reports but if an airline develops its own processes for incident or irregularity reporting, the FAA ensures that

the airline handles the reports in accordance with these processes through approved/accepted operating manuals.

***Recommendation:*** The Task Force encourages airlines to ensure that any incident or irregularity report specifically allows for the identification of an incident of sexual misconduct, whether the incident involved a minor, and whether law enforcement was requested. This would allow airlines to better track the handling of sexual misconduct allegations.

4. **Contact Law Enforcement When Incidents of Sexual Misconduct are Reported:** The Task Force agreed that airline employees should never be in the role of making a legal judgment as to whether certain conduct constitutes a crime or is legally actionable. The Task Force also noted that airlines sometimes need to balance between respecting a victim's request not to report and the importance of informing law enforcement of the incident. The airline survey further revealed that airlines generally do not contact law enforcement every time that they learn of an in-flight sexual misconduct incident, especially if they learn of it after the aircraft has landed. At the same time, the Task Force recognized that, at times, passengers may report incidents of in-flight sexual misconduct to gate agents or customer service representatives and not the flight attendant. There was also a recognition that some victims report to sources other than airlines (for example, DOT, airport police, or local law enforcement) and these entities do not always forward such reports/complaints to the FBI.

***Recommendation:*** The Task Force encourages airlines to have a policy and procedure of informing law enforcement when incidents of sexual misconduct are reported to the airline irrespective of the incident being reported to the airline during the flight or after the flight. To ensure the effectiveness of reporting, airlines may find it beneficial to consult with their local law enforcement agency when developing the airline's reporting policies.

***Recommendation:*** The Task Force recommends that local law enforcement, airport security, and DOT forward any complaints that they receive, alleging in-flight sexual misconduct, to the FBI.

## Chapter 5

### Data Collection

*Ms. E stated that she has observed sexual misconduct by passengers against other passengers. She added that she has also experienced sexual misconduct while carrying out her flight attendant duties. Ms. E. stated that her story is not uncommon and expressed her belief that nearly one quarter of all flight attendants have experienced sexual misconduct.*

#### *Ms. E meeting #3*

In its Joint Statement, Congress noted that there is limited data on the prevalence of incidents of sexual assault and harassment on commercial aircraft and requested the establishment of a task force to provide recommendations to the Secretary of Transportation on best practices and protocols for air carriers relating to data collection.

Section 339A of the FAA Act, which requires the establishment of the Task Force, charges the Task Force with issuing recommendations on how most effectively to collect data on instances of alleged sexual misconduct onboard aircraft in a way that protects the privacy and confidentiality of victims involved in such incidents and precludes the release of data that publicly identifies an individual air carrier to enable better understanding of the frequency and severity of such conduct.<sup>75</sup>

Section 339B of the FAA Act requires the DOJ to establish a streamlined process for individuals involved in an incident of in-flight sexual misconduct to report such allegations to law enforcement. Under the Act, this process is to be based on the plan that DOT develops to address recommendations it receives from the Task Force on in-flight sexual misconduct incidents.

For purposes of the Task Force's discussions, the Task Force agreed that data collection refers to the information that airlines and government agencies collect about incidents of sexual misconduct.

### 5.1 Existing Government Data on Incidents of In-Flight Sexual Misconduct

Currently, Federal agencies have the only publicly available data on the prevalence of in-flight sexual misconduct. DOT's Office of Aviation Enforcement) has received 43 complaints of sexual misconduct on flights since it began tracking these complaints in November 2016.<sup>76</sup> Of these 43 complaints, two were received between November and December 2016, 17 were received in 2017 and 14 in 2018.<sup>77</sup> In calendar year 2019, the office received 10 complaints of in-flight sexual misconduct.<sup>78</sup>

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<sup>75</sup> 115 P. L. 254 § 339 (2018).

<sup>76</sup> Data compiled by the Aviation Consumer Protection Division of the United States Department of Transportation. Website: <http://www.transportation.gov/airconsumer>.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

Passengers may also report incidents of in-flight sexual misconduct to the FAA through the FAA Hotline, <http://hotline.faa.gov>. The FAA also learns of such incidents through information relayed (in real time) to ATC from pilots and/or airline ground operations and FAA inspectors. However, the FAA does not maintain a database that segregates sexual assault incidents from other incidents involving interference with pilots or flight attendants.<sup>79</sup>

In Fiscal Year 2016, the FBI conducted a review of the number of incidents of in-flight sexual misconduct going back to 2014. At that time, the FBI identified incidents of sexual misconduct primarily through a manual review.<sup>80</sup> In Fiscal Year 2017, the FBI opened 63 investigations into incidents of sexual misconduct on aircraft, and that number rose to 84 in Fiscal Year 2018.<sup>81</sup> Since that time, the FBI has enhanced its data collection practices in an effort to capture the number of incidents more reliably. On October 1, 2018, the FBI implemented a new designation code specifically for sexual misconduct onboard an aircraft, which will facilitate better incident tracking. The FBI is training agents that are assigned to airports on using the new designation code. Since the implementation of the new designation code, the FBI reported that it opened 119 investigations involving incidents of in-flight sexual misconduct in Fiscal Year 2019. Nevertheless, the number of sexual misconduct incidents reported to the FBI is likely substantially lower than the actual number because many incidents go unreported.<sup>82</sup>

The Task Force discussed the possible reasons the number of FBI investigations have increased. The increase could be attributed to more incidents occurring today than in the past --possibly as result of an increase in the number of travelers overall. It is possible that increased passenger awareness regarding how to report incidents to law enforcement after the implementation of the FBI's *Be Air Aware* Campaign in April 2018, as well as overall public awareness of the issue in the aftermath of the “#MeToo” movement, also contributed to the increase.

## **5.2 Purposes of Data Collection**

The FAA Act states that the Task Force is to issue recommendations on how most effectively to provide data on instances of alleged sexual misconduct on board aircraft and to whom the data collected should be reported, in a manner that protects the privacy and confidentiality of individuals involved and precludes the release of data that publicly identifies an individual air carrier. The purpose is to enable better understanding of the frequency and severity of such misconduct.

The Task Force focused on three different purposes to collecting data on sexual misconduct aboard aircraft: (a) determining the prevalence of incidents of in-flight sexual misconduct; (b) supporting law enforcement investigations and prosecutions; and (c) helping airlines develop effective training programs.

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<sup>79</sup> See *infra* Chapter 4.5 for a full discussion of how FAA learns of incidents of in-flight sexual misconduct.

<sup>80</sup> All reported incidents of in-flight sexual misconduct do not result in the FBI opening an investigation.

<sup>81</sup> See *supra*, Chapter 1.2. The fiscal year is the accounting period for the federal government which begins on October 1 of one calendar year and ends on September 30 of the next calendar year.

<sup>82</sup> See Press Release, U.S. Fed. Bureau of Investigation, Sexual Assault Aboard Aircraft: Raising Awareness About a Serious Federal Crime, (April 26, 2018), <https://www.fbi.gov/news/stories/raising-awareness-about-sexual-assault-aboard-aircraft-042618>.

**a. Determining the Prevalence of In-Flight Sexual Misconduct:** The Task Force considered what data should be collected to determine the prevalence of in-flight sexual misconduct. The Task Force agreed that the data should include the flight details, time frame and date of the occurrence, arrival airport (or location), whether or not law enforcement was called, and the nature of the incident (touching or non-touching incident).

**b. Supporting Law Enforcement Investigations and Prosecutions:** Another central purpose of data collection is to obtain information that can be used for pursuing law enforcement investigations and prosecutions. The Task Force discussed what specific data is needed to accomplish that purpose, and determined that law enforcement needs the contact information and identities of the victim, alleged offender, and any witnesses. This information can also be helpful in identifying repeat offenders.

**c. Helping Airlines Develop Effective Training Programs:** The Task Force considered how airline data can identify how and when in-flight sexual misconduct occurs that can help an airline develop more effective training programs. Collecting data could highlight patterns and identify risk factors that contribute to in-flight sexual misconduct. The Task Force identified several types of information that airlines may find useful:

- Source of information (e.g., incident reports, passenger complaints);
- Type of incident (e.g., unwanted touching, indecent exposure);
- Involvement of drugs or alcohol;
- Type or duration of flight (e.g., flight time, domestic or international, red-eye);
- Victim (e.g., passenger, minor, crew member);
- Information about the offender; and
- Law enforcement involvement.

### **5.3 Task Force Discussions on Categorization of Sexual Misconduct Incidents**

The Task Force discussed the importance of collecting good data and ensuring that any proposed data collection processes are not overly burdensome. The Task Force acknowledged that a standard definition of sexual misconduct, adopted industry wide, could help improve the quality of the data collected. In the course of discussions, the Task Force also considered the presentation by a consumer rights organization, not represented on the Task Force, regarding the importance of data collection and recommendations in that regard.

To enhance the FBI data collection, the Task Force’s law enforcement representatives noted that airlines should request that law enforcement meet an arriving aircraft immediately upon learning of an incident of in-flight sexual misconduct onboard. They noted that law enforcement only needs basic information to begin an investigation: the names and contact information of the individuals involved (including any witnesses) and a summary of the incident.

The Task Force considered the benefits of using a simple categorization of incidents of sexual misconduct focusing on contact. The incidents could be categorized as either “touching” (such as groping) or “non-touching” (such as verbal harassment or incidents involving technology like “up-skirting” or viewing pornography). The airline representatives on the Task Force noted that

this distinction is widely used in the industry and is consistent with the security-based assessment that is conducted upon learning of an incident of sexual misconduct when in flight.

The Task Force also considered the importance of categorizing the type of victims, particularly identifying when a victim is a minor, understanding when a victim is an airline employee, and noting whether a perpetrator was under the influence of alcohol or other substances, if known.

These discussions informed the Task Force's surveys on airline data collection practices.

## 5.4 Airline Data Collection Practices

The Task Force airline representatives reached out to the major U.S. airlines to request information on their data collection practices.<sup>83</sup> The 17 airlines contacted for the survey account for approximately 95% of the domestic air traffic in the United States. The airlines were asked to respond to a variety of questions including how they learn about incidents of in-flight sexual misconduct and whether they track such incidents and if so, how they categorize and use the data.

Fifteen airlines responded to the data collection survey<sup>84</sup>, and the general findings from that survey were:

- a. **Source of Data:** Generally, airlines learn about incidents of sexual misconduct through reports to a flight attendant by either a victim or a witness during a flight. Airlines also learn about incidents of sexual misconduct through passenger complaints after a flight. Airlines are less likely to learn about incidents of sexual misconduct through ground staff or social media though that happens on occasion. Airlines also stated that they sometimes learn about incidents from law enforcement, DOT's Office of Aviation Enforcement, or the FAA.
- b. **Internal Data Tracking:** Most airlines record information about sexual misconduct incidents in their individual airline in-flight reporting system.<sup>85</sup> Airlines generally do not have a system for recording sexual misconduct incidents that are reported after the flight has landed. Few airlines have a separate data category specifically to identify incidents of sexual misconduct. However, several airlines stated that they are considering creating a method to identify such incidents.
- c. **Data Categorization:** When recording information about sexual misconduct incidents, airlines distinguish these incidents based on the following factors:
  - law enforcement involvement;
  - victim category (e.g., minor, passenger, flight crew);
  - type of flight (e.g., red-eye, domestic, international);

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<sup>83</sup> See Chapters 4.1, 5.4, and 6.2.

<sup>84</sup> Although 15 airlines responded to the survey, some airlines did not respond to every question.

<sup>85</sup> Airlines typically use some type of in-flight reporting system which varies from airline to airline. This system may also be known as an incident reporting system or safety reporting system.

- type of incident (e.g., unwanted touching, indecent exposure); and
- source of information (e.g., complaint, employee incident report).

The figure below provides information about the number of airlines that distinguish sexual misconduct incidents based on these factors.

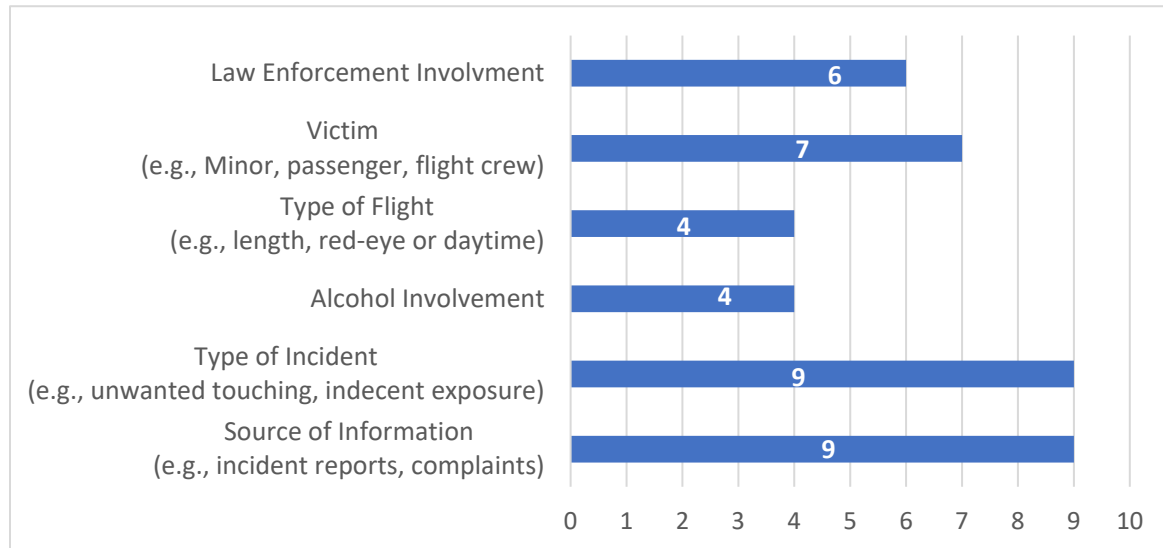


Figure 8: Airline Survey on Data Collection (Method of Tracking)<sup>86</sup>

- d. **Law Enforcement Involvement:** Airlines contact law enforcement to respond to incidents of in-flight sexual misconduct, but the frequency with which law enforcement is called varies. Half of the airlines surveyed responded that they always contact law enforcement. Law enforcement representatives indicated that the survey response was not consistent with their experience.
- e. **Reasons not to contact Law Enforcement:** Airlines shared various reasons why they may not contact law enforcement, such as:
  - Victim's request;
  - Airline learned of incident after the aircraft landed;
  - Aircraft landed in a city outside the US;
  - Limited law enforcement presence at arrival airport;
  - Failure by station operations to contact law enforcement; and
  - Lack of knowledge/awareness that law enforcement must be requested.
- f. **Use of Data (Internal):** Some airlines<sup>87</sup> prepare internal data summaries on the number of in-flight sexual misconduct incidents, with varying frequency (e.g., weekly, monthly, quarterly). It is not apparent how the data summaries are used by the airlines.

<sup>86</sup> This figure is based on the responses of twelve airlines that track incidents of in-flight sexual misconduct.

<sup>87</sup> Nine airlines responded to this question and four airlines stated that they do prepare internal data summaries.

- g. Willingness to share data with DOT:** Some airlines<sup>88</sup> stated that they would consider sharing data summaries on the number of in-flight sexual misconduct incidents with DOT. The airlines also noted the challenges they foresee in sharing data with DOT.

These challenges consist of:

- Law enforcement being better equipped to share data;
- Confidentiality of data and privacy of passengers and employees;
- Data is collected manually, which takes time and effort;
- Public dissemination of carrier specific statistics, which could contribute to negative publicity;
- Lack of consistency of data collection and reporting across industry; and
- Potential liability/increased litigation risk.

In sum, data collection on incidents of in-flight sexual misconduct is limited within the airline industry. Where airlines do collect data on these incidents, data categorization methodology varies. Few airlines have a separate data category specifically to identify incidents of in-flight sexual misconduct. Airlines also vary in how they share and use data on incidents of in-flight sexual misconduct internally.

## **5.5 Methodologies for Determining Prevalence of In-Flight Sexual Misconduct**

The Task Force considered different ways to measure the prevalence of in-flight sexual misconduct incidents, including data from law enforcement and data from the airline industry.

A representative from the DOJ's Office for Victims of Crime (OVC) shared information about how DOJ collects data related to incidents of sexual crimes in the United States. The representative spoke about incidents involving sexual misconduct and the difficulty of collecting data on these incidents because they are underreported. For context, in 2017, there was an estimated 393,980 incidents of rape/sexual assault nationwide.<sup>89</sup> However, only 40.4% of these incidents were reported to law enforcement.<sup>90</sup> With this in mind, the representative shared four methodologies that the Task Force could consider using to measure the number of incidents of in-flight sexual misconduct – (a.) reports to Federal law enforcement; (b.) reports to airline personnel; (c.) reports to local law enforcement; and (d.) total victimization. The Task Force considered each method.

### **a. Reports to Federal Law Enforcement**

The Task Force considered the feasibility of data collection using incidents reported to the FBI. The data collected by the FBI is the most comprehensive data set on incidents of in-flight sexual

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<sup>88</sup> Nine airlines responded to this question and five airlines indicated a willingness to share data with DOT.

<sup>89</sup> Press Release, U.S. Fed. Bureau of Investigation, Sexual Assault Aboard Aircraft: Raising Awareness About a Serious Federal Crime, (April 26, 2018), <https://www.fbi.gov/news/stories/raising-awareness-about-sexual-assault-aboard-aircraft-042618>.

<sup>90</sup> BUREAU OF JUSTICE STATISTICS, Data Collection: National Crime Victimization Survey, 2017 (available at <https://www.bjs.gov/content/pub/pdf/cv17.pdf>) (page 7) (last visited November 11, 2019).



misconduct publicly available. Collecting data through the FBI has several advantages. Primarily, the FBI has an existing nationwide database and data collection process. It has a nationwide presence with agents posted around the country with authority to investigate criminal incidents that occur on an aircraft in the special aircraft jurisdiction of the United States.<sup>91</sup> As a practical matter, FBI agents posted at or near airports have working relationships with local law enforcement which are beneficial when responding to requests to meet the aircraft. Moreover, in addition to reports received directly from the victims, the FBI receives reports from local law enforcement, airlines, and DOT (OST and FAA).

One challenge to this methodology is that there are gaps in the current FBI data on in-flight sexual misconduct. Generally, the FBI reports publicly the number of investigations of in-flight sexual misconduct. All reported incidents of in-flight sexual misconduct do not result in the FBI's opening an investigation. Further, there is underreporting of incidents of in-flight sexual misconduct to the FBI and the rate of underreporting is not known. The Task Force identified several situations where the FBI may not capture the data:

- Victim asks airline not to contact law enforcement;
- Victim reports after the fact (e.g., to an airline employee at the airport, after the flight has landed);
- Local law enforcement is requested by the airline but the police either do not show up or arrive too late, allowing the relevant individuals to leave without a police report being filed;
- Local law enforcement does not follow up with the FBI;
- The FBI lacks jurisdiction, where local law enforcement is the lead investigative and prosecutorial agency (as is the case with some intrastate flights), or in the case of some outbound international flights; and
- The FBI does not pursue non-criminal incidents, such as verbal harassment or viewing pornography.

The Task Force noted that these gaps can be closed through enhanced awareness and better coordination. Law enforcement representatives emphasized that if airlines request law enforcement any time they learn of an incident involving sexual misconduct, and local law enforcement is advised that all reports of in-flight sexual misconduct must be provided to the FBI, these actions will address the coordination gap. The Task Force also acknowledged that many of these gaps may close over time as awareness campaigns should enhance reporting and streamlined reporting practices facilitate data collection.

#### **b. Reports to Local Law Enforcement**

Similarly, the Task Force considered obtaining data from local law enforcement. In theory, this data set would include all incidents of in-flight sexual misconduct reported to local law enforcement by victims or airline staff to whom the incident was reported. This data set would not include incidents where a victim does not want police involvement and the airline does not

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<sup>91</sup> See discussion *supra*, Chapter 1.3.

inform law enforcement. While law enforcement reports contain high quality data, there is no infrastructure in place to coordinate data collection from various local law enforcement agencies, including airport police, across multiple jurisdictions. The FBI and law enforcement associations are focusing their efforts on establishing relationships between federal and local law enforcement authorities, to ensure that the FBI is informed of any reported incidents of sexual misconduct.

The Airport Law Enforcement Agencies Network (ALEAN) is a non-profit professional association that supports law enforcement agencies involved in policing at airports both in the United States and internationally. It brings together airport law enforcement leaders and investigators to address mutual problems, educates members, and provides input into public policy concerning matters of aviation security. It is not a data collection repository but members may share information regarding data collection among other topics. Recently, DOT participated in the 2019 ALEAN conference to advise local law enforcement of the importance of following up on reports of incidents of in-flight sexual misconduct.

### **c. Reports to Airline Personnel**

The Task Force discussed obtaining data directly from the airlines. The members acknowledged that airlines are in a better position to collect more complete data since these incidents take place on their aircraft and involve their passengers and/or employees. The Task Force also learned that incidents of in-flight sexual misconduct, if reported, are usually reported first to flight attendants. In addition, airlines learn about incidents of sexual misconduct after the aircraft has landed through ground staff, passenger complaints and even social media.

There are challenges to relying on airlines to be the primary source of data collection. The responses to the airline survey suggest that incidents reported to airline personnel may not be documented internally and it is not clear that data is categorized in such a way that the incidents can be isolated and retrieved. It is also not clear how often incidents reported after a flight has landed are included in airline data collection efforts. The Task Force also found that airline reporting practices differ, which could result in unreliable data because of lack of standardization across the industry. To mandate a standardized reporting protocol, an agency rulemaking would be required and the rulemaking process is generally a lengthy one.

The Task Force also recognized that flight attendants are not law enforcement officials and should not be tasked with collecting evidence or interviewing the individuals involved. The Task Force identified a need for airline personnel to capture basic information that law enforcement needs to identify the individuals involved (victim, offender, and witnesses) so that further action can be taken to investigate. This is especially important when law enforcement is not able to meet the aircraft at the gate or in an instance where a victim does not want to call law enforcement but later decides to report the incident.

The Task Force is also mindful of the potential data collection gap resulting from the number of incidents of in-flight sexual misconduct reported to the airline after the flight has landed, which may not be currently captured.

The Task Force also considered whether airline associations could aggregate information based on anonymous submissions from airlines to determine the prevalence of in-flight sexual misconduct. This method of collecting data could be of benefit because the airline associations can collect data in a standardization form and do so in a more efficient manner than a government agency. Moreover, centralized data collection by associations could alleviate airlines' concerns because the airline information would be industry-wide and not airline specific. There are several drawbacks to aggregating information through the airline associations. Primarily, there is not one association to which all airlines are members and associations would have to engage in a high level of coordination to centralize the information. Airline associations also have limited resources and are concerned that this approach may set a precedent of asking associations to collect data.

#### **d. National Survey to Determine Total Number of Victimizations**

The best way to measure prevalence of a crime is to identify the total number of incidents regardless of how they are reported or whether an investigation is opened, through a national survey to determine the total number of victimizations. This information can be obtained through the National Crime Victimization Survey (NCVS) of the Bureau of Justice Statistics.<sup>92</sup> This survey is conducted annually to estimate incidents of all crimes in the country. The NCVS estimates, including the total number of victimizations (i.e., incidents not victims), are based on interviews with a nationally representative sample of persons in U.S. households.

Each year, the NCVS obtains data from a nationally representative sample of 90,000 households representing 160,000 persons on the frequency, characteristics, and consequences of criminal victimizations in the United States.<sup>93</sup> It collects information on nonfatal personal crimes such as rape or sexual assault and household property crimes such as burglary. The NCVS is a self-reported survey and captures data that may or may not have been reported to law enforcement. The lifecycle of a national survey is three to four years and involves funding, creation, testing, validation, deployment, and analysis.

The Task Force considered whether questions relating to in-flight sexual misconduct could be added in supplemental surveys. This type of survey obtains data directly from individuals who may have experienced incidents of sexual misconduct, and is generally considered the best

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<sup>92</sup> During its review of this Report, HHS noted that the Violence Against Women Act in the 1994 Crime Bill established the Rape Prevention and Education Program at the Centers for Disease Control and Prevention (CDC), which is the only national program devoted to sexual violence prevention. The CDC's National Intimate Partner and Sexual Violence Survey is an ongoing nationally representative survey that assesses information including sexual violence and detailed information about the context of occurrence. In 2014, the CDC published updates to recommended data elements for record-based and survey surveillance of sexual violence, which includes a data element on the physical location of the most recent incident of sexual violence. Options for this data element include motor vehicles and public transportation/station/railroad tracks. HHS also noted that it could consider updating the survey data elements to include incidents of sexual violence on flights. Additional information available at [https://www.cdc.gov/violenceprevention/pdf/sv\\_surveillance\\_definitions-2009-a.pdf](https://www.cdc.gov/violenceprevention/pdf/sv_surveillance_definitions-2009-a.pdf).

<sup>93</sup> See generally BUREAU OF JUSTICE STATISTICS, Data Collection: National Crime Victimization Survey, 2017 (available at <https://www.bjs.gov/content/pub/pdf/cv17.pdf>) (page 7) (last visited November 11, 2019).

measurement of victimization. However, the NCVS is sent out to the general population (who may or may not have recent travel experience) and may be too broad to measure effectively the prevalence of incidents of in-flight sexual misconduct. The Task Force also learned that it would take several years to develop appropriate questions and get them into the survey cycle at a substantial cost. Recognizing the potential cost and time associated with this survey, the Task Force explored other methods to obtain data on the prevalence of in-flight sexual misconduct.

At the conclusion of the discussion, the Task Force focused on four options:

Option 1: Data collection through incidents reported to the FBI.

Option 2: Data collection through incidents reported to the airlines.

Option 3: Data collection through incidents reported to the FBI with a passenger survey to fill underreporting gaps.

Option 4: Data collection based on airline reports to be aggregated by airline associations.

## 5.6 Recommendations on Data Collection

The Task Force considered different data collection methodologies and sources of data that would effectively provide data on instances of alleged sexual misconduct onboard aircraft. The Task Force focused on how best to collect data on incidents of in-flight sexual misconduct in a manner that protects the privacy and confidentiality of individuals involved in incidents of alleged sexual misconduct and precludes the release of data that publicly identifies an individual air carrier to enable better understanding of the frequency and severity of such misconduct.

1. **Sources of Data:**<sup>94</sup> The Task Force recognized the FBI's commitment to track such incidents consistently and effectively. The Task Force also recognized that good coordination among the FBI, local law enforcement, airlines and DOT (OST and FAA) is imperative to improving the quality of data collected on incidents of this nature. The Task Force recognized that there could be gaps in the FBI data if a victim only reported the incident to the airline, and discussed airlines' reviewing internal data to ensure their policies and procedures are effective. Similarly, the Task Force recognized that DOT (OST and FAA) does not currently refer all reported incidents of in-flight sexual misconduct to the FBI. The Task Force noted that national surveys, such as the NCVS, are the best method to determine prevalence but recognizes that such surveys are expensive and time consuming.

**Recommendation:** The Task Force recommends that the FBI maintain data on the number of reported in-flight sexual misconduct incidents received from members of the

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<sup>94</sup> Under Section 339B, the Attorney General of the United States is required to establish a streamlined process for individuals involved in incidents of alleged sexual misconduct onboard aircraft to report such allegations to law enforcement in a manner that protects the privacy and confidentiality of the individuals involved. The FBI maintains a tip line where members of the public can report incidents of in-flight sexual misconduct. The toll-free tip line is 1-800-call-FBI and tips can also be submitted online at <https://tips.fbi.gov>. Additionally, the FBI has a process in place to track the information reported and assess for any action deemed appropriate.

public, airlines, local law enforcement, other Federal agencies, airports or other interested parties. The Task Force also recommends that DOT (OST and FAA) refer all incidents of in-flight sexual misconduct to the FBI. The Task Force is not opining on whether a national survey should be conducted to supplement this data.

2. **Identify Sexual Assault Incidents in FAA records:** The Task Force learned that the FAA receives reports of incidents of in-flight sexual assault through a number of ways, including passenger complaints, reports to ATC, or through routine airline inspections. The Task Force also learned that the FAA does not coordinate internally to share information or data related to incidents of in-flight sexual assault, and there is currently no system in place by which these incidents can be identified and tracked separately from general complaints involving interference with pilots and flight attendants.

**Recommendation:** The Task Force recommends that the FAA review its complaint intake process and ensure that incidents of in-flight sexual assault can be identified.

3. **Use of Data for Law Enforcement Referrals:** The Task Force concluded law enforcement is better able to investigate incidents of in-flight sexual misconduct when airlines collect contact information from the individual who experienced in-flight sexual misconduct, the alleged offender, and witnesses if any.

**Recommendation:** The Task Force encourages the airlines to have a policy and procedures to identify the victim, alleged offender and any witnesses and obtain their contact information to provide to law enforcement.

4. **Use of Data for Airline Training Programs:** The Task Force found that airlines could use internally held data to highlight patterns and identify ways to develop more effective training programs. The Task Force identified various data points that would be useful for airlines, such as how the airline became aware of the incident; the type of incident and whether drugs or alcohol were involved; flight information; information about the victim (passenger, employee, minor) and offender; and whether law enforcement was requested and/or involved. The Task Force also found that airlines that rely on regional code share partners do not always share data on in-flight sexual misconduct with its codeshare partners. Especially where an incident of in-flight sexual misconduct is reported after the flight has landed, passengers are more likely to contact the airline with whom they purchased their ticket, as they are not aware of the code share agreement. Shared data among an airline's partners will serve to enhance training and reporting procedures.

**Recommendation:** The Task Force encourages airlines to utilize data on incidents of sexual misconduct that are reported to the airline to inform the airline's training and policy development on in-flight sexual misconduct. The Task Force also encourages airlines to share their data, and resulting policies and procedures, with their regional airline partners.

## **Chapter 6**

### **Training**

*Ms. E stated that it appeared to her that the flight crew did not know what to do. She stated that the crew should have proper procedures to address these incidents.*

*Ms. E meeting #3*

Section 338 of the FAA Act expresses the Sense of Congress that airlines should train their personnel to recognize and respond appropriately to incidents of in-flight sexual misconduct, and to notify the appropriate law enforcement entities of such incidents.<sup>95</sup> Section 339A of the FAA Act, which requires the establishment of the Task Force, charges the Task Force with issuing recommendations on how to address incidents of in-flight sexual misconduct by passengers through training.<sup>96</sup> It also specifies that the Task Force is to provide recommendations on training practices for personnel responding to incidents of sexual misconduct occurring on passenger airline flights that are informed by the Task Force's review of airline training practices and first-hand accounts from passengers who have experienced sexual misconduct onboard aircraft.

The Task Force heard directly from individuals who experienced incidents of in-flight sexual misconduct during listening sessions in May and June 2019, and reviewed passenger complaints alleging in-flight sexual misconduct that had been submitted to DOT and the FBI. The Task Force took into consideration information contained in the passenger complaints and information shared during the listening sessions when discussing how to address incidents of in-flight sexual misconduct by passengers through training. Also, the Task Force, through its airline representative members, conducted a survey to learn about industry training practices regarding in-flight sexual misconduct. Airlines that have developed robust programs to address incidents of sexual misconduct shared details about their training programs with the Task Force. The Task Force also examined DOT's requirements for airlines to provide disability training to their employees and contractors to assist in its deliberations on how an airline sexual misconduct training program may be designed. Further, the Task Force considered sexual assault training practices used by other industries. The Task Force recognized the interrelationship between training, reporting and data collection as training airline employees on skills and strategies for preventing and responding to allegations of in-flight sexual misconduct and on maintaining records of such incidents when they occur improves reporting and data collection.

#### **6.1 Industry Models**

All airlines train their employees on handling unruly passengers but most do not train their employees specifically on handling incidents of sexual misconduct. The Task Force learned that other industries have training programs that specifically address incidents of sexual misconduct. The Task Force looked at training practices in the cruise and hotel and restaurant industries as part of its discussion on airline training programs to address in-flight sexual misconduct. The Task Force heard presentations about cruise lines' sexual misconduct training from RAINN and

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<sup>95</sup> 115 Pub. L. 254 § 338 (2018).

<sup>96</sup> *Id.* § 339 (2018).

the American Society of Travel Advisors (ASTA), and Futures Without Violence, a nonprofit committed to creating communities free from violence, provided an overview of the sexual misconduct training in the hotel and restaurant industries.<sup>97</sup>

In addition, DOT informed the Task Force of its airline disability training requirements. The Task Force believed that it would be beneficial to hear about which airline personnel are required to receive disability training, the frequency of the training, the content of the training program, and the standard used to determine that individuals have acquired an acceptable level of skills and knowledge.

#### **a. Airline Disability Training Requirements**

The Air Carrier Access Act (ACAA) makes it unlawful for airlines to discriminate against passengers because of their disability. DOT is responsible for enforcing the ACAA, which applies to flights of U.S. and foreign air carriers to, from, or within the United States. DOT has issued regulations in 14 CFR Part 382 (Part 382) to implement the ACAA. Part 382 includes training requirements for covered airlines.

Under Part 382, the training requirements are more stringent if an employee has been designated as a Complaints Resolution Official (CRO). CROs are the airlines' experts on disability-related issues in air travel and have the authority to resolve complaints on behalf of the airlines. The training for CROs must cover all the requirements in Part 382 and the duties of the CRO. Airlines must have a CRO available either by telephone or in person during operating hours. CROs are required to receive annual refresher training.

Part 382 requires public contact employees and contractors, who are not CROs, to be trained as appropriate to their job function. Public contact personnel include gate agents, flight attendants, and ramp/baggage employees. Part 382 requires that these employees and contractors be "trained to proficiency," which DOT interprets as "well-advanced, adept, or skilled." DOT expects that an airline employee or contractor who is trained to proficiency is one who provides services or accommodations to passengers in the right way, the first time.<sup>98</sup> The training of public contact personnel includes training as appropriate to the duties of the employee/contractor on DOT's disability regulation, airline's procedures concerning travel for individuals with disabilities, and communication with passengers with disabilities. In developing the training program, airlines are required to consult with disability organizations. Public contact personnel are required to receive refresher training at least once every three years.

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<sup>97</sup> During its review of this Report, HHS noted that according to the CDC's best available evidence to stop sexual violence, organizations can create protective environments in the workplace. This can be done by establishing and consistently applying proactive sexual harassment prevention policies and procedures designed to help employees and managers know what is expected of them with respect to standards of behavior. Additional information is available at <https://www.cdc.gov/violenceprevention/pdf/SV-Prevention-Technical-Package.pdf>.

<sup>98</sup> U.S. Department of Transportation, Answers to Frequently Asked Questions Concerning Air Travel of People with Disabilities Under the Amended Air Carrier Access Act Regulation, [https://www.transportation.gov/sites/dot.gov/files/docs/FAQ\\_5\\_13\\_09\\_2.pdf](https://www.transportation.gov/sites/dot.gov/files/docs/FAQ_5_13_09_2.pdf) (Issued May 13, 2009.)

Other than the general requirements in DOT's disability regulation, airlines are free to choose the method, length and specific content of their training programs. Generally, airlines use a mix of classroom and computer-based training.

To ensure compliance, DOT periodically reviews carriers' CRO training programs by observing training sessions. DOT also reviews airlines' training modules when passenger complaints indicate possible problem. DOT may take enforcement action against airlines when they fail to follow the training requirements. Enforcement actions include issuing warning letters to airlines, issuing cease and desist orders with or without fines, or litigating the matter before an administrative law judge.

#### **b. Sexual Misconduct Training Practices of Cruise Industry**

In 2010, Congress passed the Cruise Vessel Security and Safety Act (CVSSA),<sup>99</sup> which addresses the response to and prevention of sexual assault on cruise lines. Individual cruise lines developed training programs with respect to prevention and response efforts. Cruise lines enlisted the assistance of subject matter experts to develop specific employee training programs that included sexual misconduct education, awareness and response efforts. Although the different cruise lines do not collaborate on specific projects related to sexual assault, they do discuss safety initiatives during quarterly safety and security meetings coordinated through the Cruise Line International Association (CLIA). This discussion could include lessons learned about sexual assault education, awareness, and response efforts, and what organizations each cruise line has partnered with to meet safety and security goals.

All cruise lines train their crew on topics related to sexual assault and this training is conducted annually. Most trainings related to sexual assault are conducted at two different times. First, newly hired crew complete basic computer-based training prior to boarding the ship. This training gives the broad overview of rules, regulations, and who to go to if a problem should arise. The second training is more in-depth and occurs within the first thirty days of the crew being on-board a ship. This training is conducted in-person, on-board with all new crew. This is the time when crew get the bulk of safety and security training, including the training on sexual assault prevention and response.

Employee training generally includes definitions of sexual assault to align an international population on acceptable conduct, conduct expectations of crew and passengers, what behaviors are violations of the cruise line's conduct expectations, to whom and how to report sexual assault, prohibition of retaliation after reporting, and potential employment outcomes for those found in violation of conduct expectations. Trainings also include information on federal and international criminal reporting requirements. The training focuses on the general role of employees in responding to an incident of sexual misconduct that occur on the ship and on land at ports of call to ensure that law enforcement can do their job. In addition, crew involved in the response process, such as medical and security, are trained on national and international reporting obligations, as well as the expected response procedures, to ensure the safety of the victim. These response staff also receive training on cruise line specific reporting expectations. For ease of communication with shore side departments and local law enforcement, the cruise lines use

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<sup>99</sup> Cruise Vessel Security and Safety Act of 2010, Pub. L. No. 111-207(codified at 46 U.S.C. §§ 3507 and 3508).



electronic reporting systems. Most cruise lines require an immediate process by which shore side departments are informed of the assault to involve the FBI and any necessary local law enforcement organizations without delay.

Crew members complete this training at the start of every new contract and contracts vary based on position from three months to over nine months. As such, this training is most frequently provided to crew members at least once a year and the cruise lines update the training content and scenarios annually. Policy manuals with requirements, reporting processes, and other components from training are also available to employees through the intranet for reference such as a checklist or guide to use when an incident occurs. The cruise lines also have information posted in crew areas that indicate what sexual assault is, what to do if you hear or experience something inappropriate, and both anonymous and confidential ways of reporting sexual assault both on-board and when an employee is back in their home country.

Since definitions of sexual assault vary State by State, cruise lines most typically choose the State definition based on their headquarters location, however, they all use the FBI's definition of rape.<sup>100</sup> These definitions are discussed and clarified for all crew during training to ensure an understanding of what is a criminal act and what may be a company conduct violation. Importantly, cruise lines also clarify the conduct expectations of guests, to ensure that crew understand how to handle or whom to report inappropriate comments, actions, or behaviors from guests.

Most cruise lines provide passengers information on appropriate conduct expectations during the initial safety meeting when guests first board the ship. Many cruise lines also inform guests of appropriate conduct expectations, safety and security tips, and reporting strategies through messaging on the free cruise line TV channel, by having this information printed out in the guest rooms, and available at the guest services desk. Both crew and guests are provided free, confidential, and anonymous methods of reporting sexual assault on-board and once the individual has returned to their home. Crew areas have more visible posters and printed documents that refer to employee assistance programs, whereas guests are provided information on the security department, guest services, and how and to whom to report this behavior while on-board.

Cruise lines do not have a quantitative measure for the effectiveness of sexual assault training. Effectiveness is measured by feedback provided from law enforcement and those involved in the response process. Qualitatively, response teams have indicated that the changes in training, including more detailed training on roles, responsibilities, and how to respond to victims of sexual assault, has made the process smoother for both the response staff and those involved in the reports. Response teams have indicated that they feel more comfortable and prepared to handle cases of sexual assault, and that the increased awareness of all crew on appropriate conduct has assisted in creating safer environments on the cruise ships. Most cruise lines will also provide victims information on a shore side advocate to whom they can reach for support and information after debarking from the ship. Qualitative feedback from these individuals

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<sup>100</sup> The FBI's definition of rape, used in the FBI's Uniform Crime Reporting Program, can be found <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/topic-pages/rape>.

indicates that the more trained response staff are, the more they are able to take care of the emotional needs of the victim, and provide a more effective response.

### **c. Sexual Misconduct Training Practices of Hospitality Industry**

The Violence Against Women Act of 2005 authorizes DOJ's Office on Violence against Women (OVW) to fund a nonprofit entity to establish and operate a national resource center to assist victims of domestic and sexual violence in the workplace. OVW funds Workplaces Respond, a project of Futures Without Violence, to operate the national resource center. Workplaces Respond provides technical assistance to public agencies, private employers, labor unions, and advocates to promote workplace cultures of support for survivors, and engages in prevention of domestic violence and sexual violence, harassment, and stalking affecting the workplace.

The Workplaces Respond program has helped establish training programs for restaurant worker unions and others in the hospitality industry. The unions in the restaurant and hotel industries have incorporated the trainings and are developing an industry-wide approach. The program uses an individualized approach in developing training programs – for example, doing needs assessments specific to the industry, meeting with leaders to determine goals and outcomes, testing and revising the training, and then training those appointed employees who would train the rest of the industry. Workplaces Respond trains individuals through the use of role-play, small group exercises, and experiential learning.

The content of the trainings generally follows the “4 R's”: Recognize, Respond, Refer, and Re-engage.

1. **Recognize:** This foundational aspect of the training focuses on defining gender-based violence, its prevalence, and its impacts on workers and workplaces.
2. **Respond:** This aspect of the training focuses on creating a work place culture of safety and accountability. For example, training on how to provide victim support grounded in trauma-informed and victim/survivor-centered practices.
3. **Refer:** The training focuses on connecting individuals to resources and assistance, specifically local service providers who can both provide support for training and interact with victims.
4. **Re-Engage:** Finally, this component of the training addresses the need to build a culture of support within the organization.

Workplaces Respond conducts post-training evaluations, which identify unmet needs and challenges in knowledge, attitudes, and behavior. The entire process – from initial assessment, curriculum development, and implementation - takes about 1 year. The program also provides clients with safety cards and posters for awareness campaigns, which are adaptable to incorporate specific corporate policies.

#### **d. Airlines with Specific Sexual Misconduct Training**

Two airlines that have developed robust programs to address incidents of sexual misconduct, Alaska Airlines and Delta Air Lines, shared information about their training practices with the Task Force.

Generally, both airlines train pilots and flight attendants to respond to incidents of in-flight sexual misconduct by taking certain steps, based on the nature of the incident. The primary focus is to deescalate the situation and separate the passengers involved by moving one passenger to another seat. Flight attendants are also trained to use their airline's in-flight event reporting system to report incidents of sexual misconduct internally and, based on the circumstances, may elevate the incident to the captain for further action. Both airlines train flight attendants to report incidents of in-flight sexual misconduct for internal purposes, although reporting to law enforcement is a separate process. Flight attendants are also trained to obtain statements from victims and witnesses.

Both airlines indicated that flight attendant initial training takes place in-person and includes handling incidents of physical or disruptive behavior. Recurrent training is usually web-based or in an online format. While one of the airlines relied primarily on internal resources for the development of its training, the other used outside consultants for training development, in conjunction with its internal human resources team.

### **6.2 Airline Information Survey on Training Practices**

After considering training models and procedures adopted in different industries, the Task Force focused on existing training practices within the airline industry. The Task Force airline representatives reached out to the major U.S. airlines to request information on their data collection practices.<sup>101</sup> The airlines that were contacted account for approximately 95% of the domestic air traffic in the United States. The airlines were asked to respond to a variety of questions about their employee training practices. The survey distinguished between incidents of sexual misconduct reported in-flight and those reported after landing.

For this survey, airline respondents were given the Task Force's working definition of sexual misconduct as context for their answers. The airlines were also advised that, for purposes of this survey, a person is incapable of consent if they are unable to understand the facts, nature, extent, or implications of the situation due to drugs, alcohol, a mental disability, or being asleep or unconscious. Finally, the survey stated that the Task Force was interested in incidents between passengers or between a passenger and a crewmember, but not incidents between two crewmembers or airline employees which would normally fall under workplace issues.

Fourteen airlines responded to the training practices survey.<sup>102</sup> The general findings from that survey are described below.

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<sup>101</sup> See Chapters 4.1, 5.1, and 6.1.

<sup>102</sup> Although 14 airlines responded to the survey, some airlines did not respond to every question.

- i. **Types of Airline Employees Who are Trained.** When asked which employees (flight attendants, flight crew/flight deck, or ground security) are trained on how to handle incidents of sexual misconduct that are reported in-flight (in contrast to an incident reported on the ground, after the flight lands), 14 airlines responded. Most airlines responded that they do train flight attendants on how to handle incidents of sexual misconduct reported in-flight. Some airlines clarified that their training was not designed to solely address sexual misconduct, but rather included sexual misconduct in flight attendant training to address other types of in-flight incidents or otherwise encompassed in other trainings. Most of the airlines that responded indicated that pilots, ground security and other personnel on the ground do not receive training.

When asked if airlines train customer service representatives, gate agents or ticket agents, or supervisors to handle incidents of in-flight sexual misconduct reported after the flight has landed, only three airlines responded stating that these personnel are trained. The remaining 11 either stated they do not train personnel or did not respond to the question.

- ii. **Frequency of Training.** Generally, airlines conduct training at the start of employment (initial training), on an annual basis (annual training) or at other intervals (other periodic training). Airlines were asked how frequently their employees are trained on how to handle incidents of sexual misconduct reported in-flight. Eleven airlines responded to share the frequency with which their employees are trained on how to handle incidents of sexual misconduct that are reported on the flight.

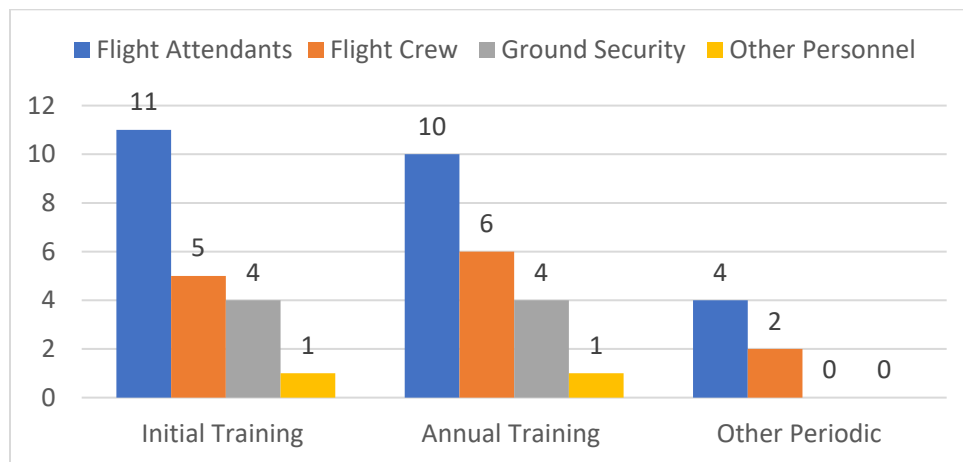


Figure 9: Airline Training Survey<sup>103</sup>

<sup>103</sup> Based on 11 airlines' responses to this question.

- iii. **Method of Training.** Airlines were also asked how flight attendants, flight crew, ground security, customer service representatives, gate/ticket agents and supervisors were trained and given the option to select: in-person, web based, written, or other. Responses varied, but most airlines indicated that flight attendants were trained in-person, via web modules, and/or through written trainings.

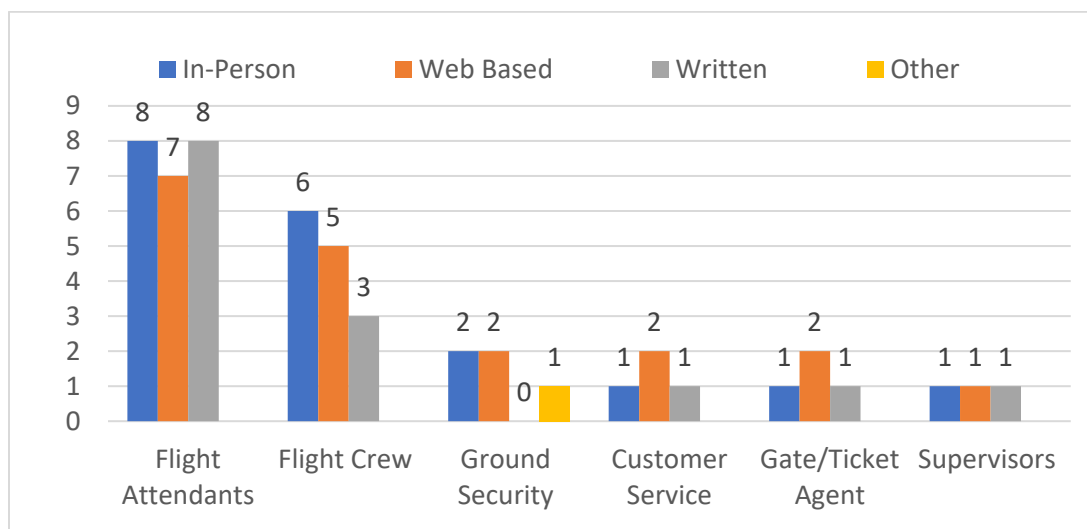


Figure 10: Airline training survey<sup>104</sup>

- iv. **Willingness to Train in the Future.** Most airlines indicated a willingness to conduct training on handling incidents of sexual misconduct either through in-person or web-based training. Airlines that responded to the survey were less willing to conduct such training for customer service personnel, gate agents or supervisors, specifically where incidents are reported after the flight lands.

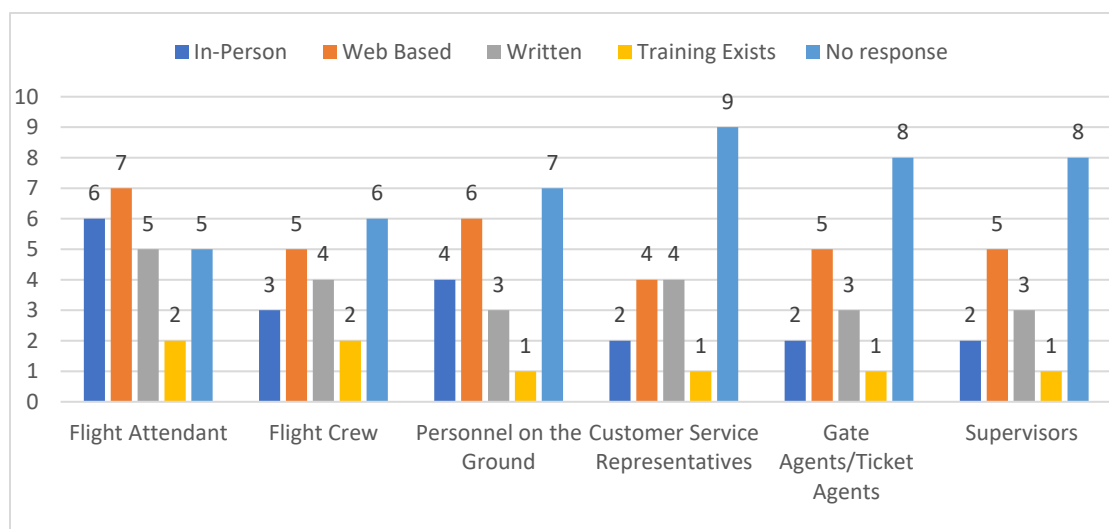


Figure 11: Airline training survey<sup>105</sup>

<sup>104</sup> Based on ten airlines' responses to this question.

<sup>105</sup> Based on 11 airlines' responses to this question.

- v. **Challenges to Implementing Training.** Airlines shared challenges they anticipated in implementing training on how to handle incidents of sexual misconduct. These included:
- Lack of understanding of training requirements;
  - Time constraints of conducting in-person or web training;
  - Varied training across airlines when airlines share service providers;
  - Difficulty in developing and implementing policies;
  - Implementation of non-biased training; and
  - Impact of the length and frequency of training on operation.

Some airlines noted that they do not foresee challenges and that training on the issue of sexual misconduct would be beneficial. One airline stated that it is in process of rolling out new policies and procedures on handling incidents of in-flight sexual misconduct, with training to follow.

- vi. **Other Areas for Training.** Airlines were asked about existing policies and procedures relating to unaccompanied minors and unruly passengers. The airlines were also asked about their willingness to incorporate training related to in-flight sexual misconduct into those trainings. In addition, the airlines were asked how frequently training is conducted and in what manner the training is conducted.

- a. ***Unaccompanied Minor Programs.*** All but one of 14 airlines provide training on issues concerning unaccompanied minors to flight attendants and flight crew. Less than half the airlines train other personnel on unaccompanied minor policies and procedures. Moreover, flight attendants are trained using in-person classes, web-based training and receive written training.

Similarly, in terms of frequency of training, thirteen airlines include training on unaccompanied minors in flight attendants initial training and twelve airlines also train on the topic annually. Approximately one-third of the airlines provide initial and/or annual training on unaccompanied minors to other employees.

When asked if airlines would be willing to incorporate voluntarily training related to handling incidents of sexual misconduct into their existing training on unaccompanied minors, twelve airlines responded. Most of these airlines indicated a willingness to incorporate sexual misconduct training into their unaccompanied minor training.

- b. ***Handling Unruly Passengers.*** All 14 airlines train flight attendants on how to handle unruly passengers. Certain personnel on the ground, customer service representatives, and supervisors receive this training as well.

Most airlines include training on how to handle unruly passengers in flight attendant and flight crew initial training but other employees are trained less frequently. Airlines were also asked if they would be willing to voluntarily incorporate training related to handling incidents of sexual misconduct into their existing training on handling unruly passengers. Ten airlines responded that they would be willing to do so, and one airline indicated that

it has already incorporated training on handling incidents of sexual misconduct into its existing training on unruly passengers.

Airlines were also asked how they defined “unruly passenger”, and responses included:

- physically or verbally abusive;
- noncompliant;
- causing disruption;
- interfering with flight attendant duties;
- intoxication;
- threatening the safety or comfort of others; and
- perceived to be a security threat.

The Task Force noted that many of these behaviors could also describe sexual misconduct.

- vii. **Standard Operating Procedures.** Generally, airlines’ standard operating procedures are published in airlines’ employee manuals, such as the flight attendant manual, the flight operations manual, and the station operations manual. The Task Force discussed whether standard operating procedures (SOPs) on addressing unruly passengers, managing passengers who change seats, asking passengers to change seats to accommodate another passenger’s request/incident, and handing of a passenger’s personal property where passenger is suspected of a crime were in employee manuals. Fourteen airlines responded and all indicated that SOPs on addressing unruly passengers were in employee manuals. Most airlines also had SOPs in employee manuals on managing passengers who change seats and asking passengers to change seats. Few airlines had SOPs in employee manuals on handling of passenger’s personal property where the passenger is suspected of a crime.

Airlines were also asked if they would be willing to develop voluntarily SOPs on addressing in-flight sexual misconduct incidents. Most airlines indicated that they would be willing to put in SOPs for identifying sexual misconduct and informing the flight captain to request law enforcement involvement. Most airlines also indicated a willingness to incorporate sexual misconduct training into existing flight attendant training programs for unaccompanied minors and unruly passenger training, and some expressed a willingness to do the same for other personnel.

- viii. **Flight Attendant Training.** The training survey asked if the airlines provided flight attendants with training on specific topic areas, and the method in which this training was conducted (i.e., in-person, computer or web-based, or other written training). The survey requested information on the following specific topic areas:
- Sensitivity training on engaging with passengers who have experienced traumatic or unusual events in-flight (e.g., medical trauma, adjacent to a passenger that experienced a medical trauma);
  - Handling unruly passengers;
  - Handling passengers who change their seat from their assigned seat;
  - Requesting passengers to change their seat to accommodate another passenger’s request;
  - Identifying incidents of sexual misconduct when reported;

- Identifying when an incident of sexual misconduct should be elevated to the flight crew for further action; and
- Identifying when an incident of sexual misconduct should be elevated to corporate security and/or a request for law enforcement to meet the plane upon landing.

The survey results indicate that airlines generally train flight attendants on how to handle unruly passengers and the training is conducted in-person and on the web.

Figure 12 below provides greater detail about this training as well as the other topic areas where flight attendants are trained and how that training is conducted.

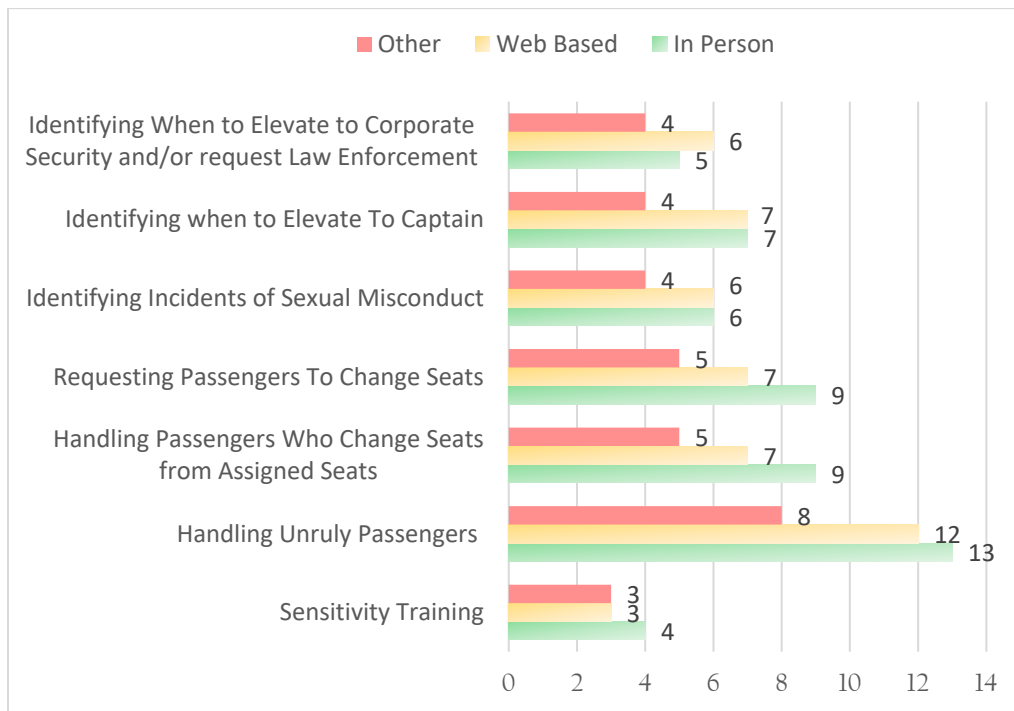


Figure 12: Airline training survey<sup>106</sup>

- ix. **Other Training Areas.** Finally, airlines were asked if employees were trained on how to handle unique situations they come across. Responses varied, but airlines stated that flight attendants were generally trained to de-escalate and use their best judgment. Some airlines use conflict resolution management training, but the majority provide no specific training except that they should collaborate with other flight attendants and follow the captain's directives.

<sup>106</sup> Based on 11 airlines' responses to this question.



## 6.3 Assessing Current Training Models

After considering the data collected through the airline training practices survey and presentations about how other industries train employees to respond to incidents of sexual misconduct, the Task Force considered the following questions:

- Who should be trained on handling incidents of in-flight sexual misconduct?
- How often should they be trained?
- What content should they be trained on?
- How can airlines ensure that the training is effective?

### 1. Which Employees Should Be Trained?

The Task Force considered the chain of reporting to identify which airline employees should be trained to handle incidents of sexual misconduct. As discussed previously, passengers often report incidents of in-flight sexual misconduct to the flight attendant during the flight, but it is not uncommon for such incidents to be reported after landing to a gate agent or customer service representative. Even when incidents are reported during the flight, employees on the ground assist the flight crew in informing law enforcement.

In response to the airline training practices survey, most airlines stated that they provide training to flight attendants and flight crew on how to handle incidents of in-flight sexual misconduct. The airline survey results showed that few provide this training to employees in other positions such as ground security personnel, gate agents, customer service representatives or supervisors.<sup>107</sup> The Task Force recognized that each employee in the reporting chain plays a different role with varying degrees of involvement, and need not receive the same type or level of training; however, employees within the chain of reporting should receive some training.

The Task Force also considered challenges to developing and implementing training addressing incidents of sexual misconduct for different types of employees and recognized the need for a thoughtful assessment of employees' roles and responsibilities. The Task Force discussed the benefit of training employees according to their specific job responsibilities and extent of passenger contact. For example, appropriate training for a gate agent could include understanding how to interact with the victim, what information needs to be gathered, and when and how to contact law enforcement. In contrast, a systems operator responsible for relaying information between the flight deck and corporate security (or law enforcement), may only need training on the airline policies and procedures for handling such incidents but need not be trained on interpersonal communication with passengers.

The Task Force also considered the benefits of training certain employees to be “experts” in handling incidents of sexual misconduct, particularly for incidents reported after the flight lands. This would be similar to the role of a CRO, which is required under DOT’s disability regulations. In the context of handling disability related passenger complaints, the CRO is an expert on disability issues and is empowered to resolve passenger concerns. Employees with

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<sup>107</sup> The airline training survey did not ask airlines what type of training is provided, or the content of such training. The survey reflected, however, that twelve out of fourteen airlines do not provide any training for customer service representatives and gate agents on how to handle incident of sexual misconduct that are reported to them.

specialized training to address incidents of sexual misconduct could serve as a resource for employees and/or victims.

The Task Force concluded that flight attendants and pilots should be trained on how to handle incidents of sexual misconduct. The Task Force also concluded that airlines should train other personnel charged with or involved in responding to and/or reporting incidents of sexual misconduct as appropriate. Airlines may also want to consider the benefit of training supervisors or others as CRO-type experts.

## **2. What should the content of the training be?**

The airline training survey highlighted that most airlines do not have training specifically designed to address incidents of sexual misconduct. Airlines that have developed robust programs to address incidents of sexual misconduct shared details about their training program with the Task Force. Based on the survey results and the presentations provided by airlines with robust in-flight sexual misconduct training programs, it appears that flight attendants are generally trained to obtain statements from victims and witnesses, and if the incident involves physical contact, flight attendants are trained to report that incident. Flight attendants are also trained to separate the passenger and the alleged assailant by moving one of them to another seat. Flight attendants often use their airline's in-flight event reporting system to report incidents of sexual misconduct and this data is captured internally. Pilots and flight attendants are also trained to report to law enforcement. One airline has developed a reporting procedure through a 24-hour hotline number and includes instructions on how to report sexual misconduct incidents in its employee manual.

The Task Force distinguished between training on psychological components (e.g., sensitivity training, recognizing boundaries and biases) versus procedural components (e.g., policies and procedures, checklists). Due to the sensitive nature of the situation, discretion and situational awareness are important when responding to the incident. The following training areas were discussed to address both the psychological and procedural needs for a training.

**Training on Essential Response Skills and Communications.** The Task Force discussed the importance of “trauma-informed” training, i.e., to have flight attendants trained to respond in a trauma-informed, victim-centric way.<sup>108</sup> The goal is to obtain information necessary for law enforcement to pursue a case without unintentionally revictimizing the individual, or skewing information due to personal biases. Victim centered training allows response staff to acknowledge and prioritize the needs of the victim to ensure a compassionate, empathetic, and nonjudgmental response. The Task Force discussed the purpose of taking steps to make a victim feel safe, supported, and empowered so that they are able to play a contributing role in the response process. The Task Force learned that trauma-informed training provides response staff with an understanding of how trauma affects the brain which impacts how a victim will respond

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<sup>108</sup> During its review of this Report, HHS noted that the HHS Substance Abuse and Mental Health Services Administration provides a framework for becoming a trauma-informed organization, system, or sector, including six key principles and ten implementation domains. Additional information is available at [https://store.samhsa.gov/product/SAMHSA-s-Concept-of-Trauma-and-Guidance-for-a-Trauma-Informed-Approach/SMA14-4884.html?WT\\_mc\\_id=EB\\_20141008\\_SMA14-4884](https://store.samhsa.gov/product/SAMHSA-s-Concept-of-Trauma-and-Guidance-for-a-Trauma-Informed-Approach/SMA14-4884.html?WT_mc_id=EB_20141008_SMA14-4884).

and react during and after the incident. This is particularly relevant when determining credibility as trauma can present in ways that appear to be deception on behalf of the victim.

These components of response training are critical in the emotional recovery of a victim, and provides response staff with strategies for how to work with individuals in crisis. It is important that the airline's actions are sensitive to the victim and do not result in the victim being blamed or the incident being dismissed. In this context, the Task Force discussed the training in the cruise industry, where employees learn how to communicate and interact with victims and how to combat potential bias that may influence an employee's response.

In addition, the Task Force discussed the importance of communication between flight attendants on the flight and between pilots and flight attendants in support of recognizing the need for discretion when responding or discussing these types of situations.

**Training on Procedures.** The Task Force also focused on two key roles for flight attendants: (1) being able to identify that an incident has occurred and (2) knowing how to respond to it, which includes identifying the key individuals in a sensitive manner. The Task Force also acknowledged that if the incident occurs in the middle of the flight, training should include the procedures to ensure that the passengers involved are separated and remain separate. The Task Force recalled that one individual who shared her account of in-flight sexual misconduct with the Task Force expressed concern that, although she was reseated after the incident, she was asked to return to her original seat next to the alleged offender before landing.

The Task Force also discussed the importance of reporting incidents of in-flight sexual misconduct to law enforcement to support law enforcement investigations and prosecutions. A Task Force member suggested that it may be beneficial for airlines to consult with law enforcement when developing the airline's reporting policies and procedures.

**Standardized Response Thresholds.** The Task Force considered the benefits to having standardized responses to incidents of sexual misconduct in the same way flight attendants have standardized responses to security threats. This may be helpful, particularly when responding to overt physical acts. The Task Force acknowledged, however, that sexual misconduct may not involve actual contact between passengers and may not fit in the airlines' existing security threat thresholds. The Task Force also noted that an airline's response may differ depending on whether it considers an incident involving sexual misconduct to be a security matter or a code of conduct matter.

**Adapting Existing Training.** The Task Force considered the benefits to incorporating sexual misconduct training into existing training on unruly passengers. For example, airlines shared that their definitions of an unruly passenger include a passenger who is physically or verbally abusive, causes disruption, and threatens the safety or comfort of others. The Task Force noted that the actions that airlines consider to be unruly behavior include commonalities with elements of sexual misconduct.

Generally, airlines train flight attendants and the flight crew on how to handle unruly passengers. Some airlines also train personnel on the ground, customer service representatives, and

supervisors on handling unruly passengers in flight as well. The airline training survey showed that most airlines provide initial and annual training on unruly passengers to flight attendants and that some airlines also provide this training to flight crew and ground personnel. Airlines also expressed a willingness to incorporate training on incidents of sexual misconduct into their existing training on handling unruly passengers.

**Airline Manuals:** The Task Force discussed the importance of the employee manuals, recognizing that flight attendants rely heavily on their flight attendant manuals for guidance when addressing issues during a flight. The Task Force member representing flight attendants shared that manuals are the single most important resource for flight attendants and it is where information about handling incidents of sexual misconduct could be easily accessed. The Task Force member representing pilots affirmed that including guidance on addressing incidents of sexual misconduct in the flight attendant and pilot manuals would be the best way to implement any widespread change and the best way to ensure compliance.

The Task Force discussed the various employee manuals and the FAA requirements applicable to them.<sup>109</sup> Airline manuals include a wide range of information, such as safety related policies and procedures that may be subject to review and/or approval by the FAA and security related policies and procedures that may be subject to review and/or approval by the TSA. Airline manuals also include information that is not required by either FAA or TSA, but is important in enabling flight attendants and pilots to carry out their duties. Airline employees are trained on information included in their manuals.

For instance, FAA requires airlines to train pilots and flight attendants on how to handle passenger misconduct. Although there are regulations setting minimum standards for what must be included in the airline manuals, U.S. airlines prepare their own manual content based on their individual policies and procedures, which then must be submitted to their Principal Operations Inspectors at the FAA for approval.

The Task Force discussed the possibility of airlines including a standard definition of sexual misconduct and the procedures for addressing sexual misconduct in airline manuals to further consistency in the way airlines address these incidents. The Task Force also considered the challenge to incorporating the definition of sexual misconduct and procedures for addressing in-flight sexual misconduct in such manuals, notably that it may be more difficult for airlines to adapt their policies and procedures because those revisions would need to be reviewed by the FAA. While the Task Force recognized that revising airline manuals may be burdensome on the industry, some Task Force members asserted that the benefit of including the procedures and definition in airline manuals outweighs the burden as their inclusion would make the information readily available for flight attendants and pilots to use as a resource when responding to incidents.

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<sup>109</sup> Federal requirements for airline manuals are applicable to air carriers operating under the certification requirements of 14 C.F.R. parts 121, 125 and 135. Foreign air carriers, operating under the certification requirements of 14 C.F.R. part 129, would not typically have as robust manual requirements.

### 3. What Training Method, Frequency, and Length Should be Considered?

The Task Force discussed various training tools, methods, frequency and length of training. Although the Task Force agreed that it would not recommend the specifics with respect to the method, frequency, or length of the airline training, the Task Force discussed various methods that may be useful in the development and implementation of the training.

**Method:** Based on presentations to the Task Force on sexual misconduct training conducted by the cruise and hospitality industry as well as airlines' disability training programs, the Task Force discussed a variety of in-person training methods including scenario-based, lecture based and role-play. The Task Force also considered how online training could be implemented. The Task Force acknowledged that training related to sensitivity and inter-personal communication is usually better conducted in-person. The Task Force acknowledged that different types of employees may be trained in different ways, based on the content and the employees' availability, and airlines should take that into consideration. For example, pilots may find that computer-based trainings that focus on response procedures to be more helpful while flight attendants may find that in-person empathy training is more appropriate as they interact more directly with passengers.

The Task Force discussed the benefits of building upon existing training modules and incorporating sexual misconduct as a component of other training modules. This approach would allow for airlines to maintain their independent policies and methods but still effectively address sexual misconduct in training. The training survey indicated that airlines were generally willing to incorporate specific training on sexual misconduct in existing programs addressing unruly passengers and unaccompanied minors.

**Frequency:** The Task Force generally agreed that initial sexual misconduct training for new hires and existing employees was important. Outside of the initial training, the Task Force recognized that flight attendants and pilot have scheduled recurrent training cycles which can vary based on their approved training programs tied to regulatory requirements. Flight attendant training is typically on a twelve-month cycle while pilot training can vary between 6, 9, or 12 month visits in a 12, 24, or 36-month cycle. The Task Force also learned that when a manual is changed, employees are usually trained on the changes within the year. The Task Force considered the frequency with which training is conducted in other industries, and noted that in the disability realm, public-facing employees are trained every three years and CROs are trained every year. In the cruise industry, the frequency of training depends on whether the employee is a security officer (annual), a medical officer (two to three years), or a general employee (annual).

One Task Force member suggested that airlines consider how frequently the training information is updated and scenarios are modified. Periodic updates to training programs and modifying scenarios help ensure that employees who review the training aren't bored and scenarios are reflective of changing circumstances that flight attendants and other airline employees may experience. Periodic training updates also allow for the airline to use tough but realistic examples that employees are challenged to think about.

**Length of Training:** The Task Force was cognizant that airline employees receive training on various subjects, some of which are required by regulation and others are prescribed by the airline, and determined that the amount of time spent in training is a matter best left to the airline. Each airline may adopt a different training schedule based on the method of training, subjects to be addressed in those trainings, and other considerations. For context, the Task Force considered how much time other industries spent training on sexual misconduct. The Task Force learned that training in the cruise industry varies by position. Initial security training for most cruise lines is extensive, sometimes over a period of days, and this training may include a sexual assault component that runs anywhere from five to eight hours. For other employees, initial onboard training is six hours and refresher trainings are two hours. The cruise industry differs from the airline industry in that cruise lines do not have much turnover in staff so initial trainings are infrequent.

## **6.4 Recommendations on Training**

The Task Force noted that data on incidents of sexual misconduct collected by public sources such as the FBI, as well as internal airline data that is not shared with outside sources, are important tools for training development and updates. The Task Force recognized that training on the issue of addressing sexual misconduct will evolve over time based on what is learned from the data. As the data collection improves, airlines will be better able to determine how best to design or update training for its employees.

The Task Force considered ways that airlines can enhance their training programs to prepare their employees better to identify and report incidents of in-flight sexual misconduct. The Task Force discussed and analyzed airlines' current training practices. The Task Force also considered how other industries respond to allegations or reports of sexual misconduct by passengers onboard aircraft.

1. **Training Airline Employees on How to Address Incidents of In-Flight Sexual Misconduct:** The Task Force recognized that training of airline employees, as appropriate to their duties, on addressing in-flight sexual misconduct is a best practice.

***Recommendation:*** The Task Force recommends that airlines provide training on addressing in-flight sexual misconduct to their flight attendants, pilots and other personnel charged with or involved in responding to and/or reporting incidents of sexual misconduct.

2. **Key Elements of Training:** The Task Force acknowledged that trauma-informed training on communicating with individuals who have experienced in-flight sexual misconduct, as well as policies and procedures on how to respond and report incidents of sexual in-flight misconduct, are important. The Task Force considered recommending training content, length and method (in-person, web based, etc.) but recognized the benefits of providing airlines flexibility in these areas.

***Recommendation:*** The Task Force agreed that the key elements of training should include as appropriate to the duties of the airline employee: (i) the standardized definition of "sexual misconduct", as adopted by the airline; (ii) sensitivity training, (iii) policies

and procedures on responding to incidents of in-flight sexual misconduct, and (iv) policies and procedures on airline reporting (internal and external) and data collection practices.

## **Chapter 7**

### **Findings & Recommendations**

The Task Force recognizes that while progress has been made by the many responsible stakeholders in preventing and responding to incidents of in-flight sexual misconduct, the occurrences of such incidents is an issue that requires continued attention from and should remain an ongoing priority for both the ACPAC and the Secretary of Transportation. With regard to specifics, in accordance with the FAA Act, the following are the findings and recommendations of the In-flight Sexual Misconduct Task Force.

#### **7.1 Findings**

- a. There is no common definition of sexual misconduct across the airline industry.
- b. The rise of social activism and increase in public attention on the issue of in-flight sexual misconduct have prompted airlines to review their policies and response protocols. In turn, many airlines have indicated a willingness to revise applicable policies and procedures.
- c. Flight attendants and pilots are often the first responders to incidents of in-flight sexual misconduct.
- d. Data collection serves three purposes:
  - a. Determining the prevalence of in-flight sexual misconduct;
  - b. Supporting law enforcement investigations and prosecutions; and
  - c. Helping airlines develop effective training programs.
- e. There are gaps in the data on incidents of in-flight sexual misconduct, collected by the Federal Government.
- f. Airlines have standardized policies on reporting of possible threats or regulatory violations, and may record some information about sexual misconduct incidents in their individual airline reporting system, however, airlines do not have standardized policies on training, data collection, or reporting practices that specifically address incidents of in-flight sexual misconduct.
- g. Training serves as an important foundation for accurate recognition, response and reporting for data collection, and is an imperative part of addressing incidents of sexual misconduct on commercial aircraft.
- h. The ability of airlines to make certain changes in policies and procedures to prevent and respond to allegations of sexual misconduct may depend on the airline size, resource capacity, and other considerations that may vary from airline to airline.
- i. Allowing airlines to retain some flexibility in implementing changes to improve data collection, training, and reporting is important. As a result, some recommendations to the airlines represent a broad range of approaches for addressing in-flight sexual misconduct.



- j. The Task Force finds that there are specific actions that the Federal government, law enforcement, the airlines, airports, and the unions may take based on reviews of current practices.
- k. The Task Force did not make specific recommendation in certain areas because the current data on prevalence does not justify recommending onerous requirements. The Task Force's report focuses on ways to enhance passenger awareness and training, which will improve reporting and data collection within the industry and law enforcement, and provide better data to determine whether additional action is warranted.

## **7.2 Definition of Sexual Misconduct**

The Task Force noted that the FAA Act does not define “sexual misconduct” and there is no other statutory definition for this term. Therefore, the Task Force determined that, to address sexual misconduct aboard passenger aircraft better, there needs to be a definition of the term that the Federal government, the airlines, law enforcement, and passengers can use for the sake of consistency in policies and procedures to handle and report incidents of in-flight sexual misconduct.

Through collaborative discussions, the Task Force reviewed a variety of definitions relating to non-consensual sexual acts. These included statutory definitions, definitions provided by the airlines, RAINN, and the flight attendants unions. The Task Force agreed on the following definition:

***Sexual misconduct is a broad term. It encompasses any behavior or attempted behavior of a sexual nature that is committed without consent or with someone incapable of consent, or by force, intimidation, coercion, or manipulation. Sexual misconduct also includes physical or verbal advances or harassment of a sexual nature, or public indecent exposure.***

The Task Force adopted this definition for purposes of this report.

***Recommendation:*** Widespread adoption of a standardized definition will facilitate better data collection, reporting, and training within the airline industry. The Task Force encourages airlines to incorporate the Task Force's definition of sexual misconduct in their operation manuals, training, data collection, and reporting policies and procedures as appropriate.

***Recommendation:*** The Task Force encourages law enforcement responding to reported incidents of in-flight misconduct to be made aware of the Task Force's definition.

## **7.3 Awareness**

The Task Force addressed passenger awareness of sexual misconduct and reporting options because it is an aspect of the reporting process. Awareness campaigns are intended both to deter offenders and to inform victims of available resources, including recourse, how to report incidents and the availability of victim support services. Options for awareness campaigns

include in-flight verbal or video announcements, inclusion in the in-flight magazine or other seat back pocket materials, posters or other signage, adopting and posting a passenger code of conduct (which may include the definition of sexual misconduct and the existence of civil and criminal consequences), and/or posting resources or statements on websites or Wi-Fi landing pages.

In its discussions, the Task Force recognized the challenges to awareness programs but determined that these educational and awareness efforts are vital to achieving better training, reporting and data collection outcomes.

**Recommendation:** Airlines, airports, and appropriate Federal agencies should engage in awareness campaigns. The Task Force recognizes that there are various methods for the airlines to do so and encourages airlines to consider the methods mentioned in Chapter 3 and use the methods that best fit with their policies and practices on sexual misconduct. Federal agencies should also take steps to ensure that passengers are aware that acts of sexual misconduct are punishable under federal law and how incidents involving in-flight sexual misconduct should be reported.

## **7.4 Reporting**

The Task Force considered ways to enhance reporting of in-flight sexual misconduct. The Task Force discussed and analyzed airlines' current reporting practices, including how airlines address privacy concerns on an aircraft, the role of flight attendants versus law enforcement, passenger discomfort in reporting incidents and delays in passenger reporting. The Task Force also considered how other entities such as the FBI, DOT or local law enforcement respond to allegations or reports of sexual misconduct by passengers onboard aircraft.

1. **Enable Passengers to Report Incidents in Various Ways:** The Task Force explored various passenger reporting methods, which led to discussions of certain methods that may re-traumatize victims, the fight-flight-freeze response that victims may experience, the possibility that misconduct could occur at times when it is not feasible to report it immediately, and airlines' practices and procedures for accepting passenger reports of sexual misconduct after the plane has landed.

**Recommendation:** The Task Force encourages airlines to establish clear policies and procedures around reporting methods to enable the airline to accept and appropriately respond to passenger reports of sexual misconduct whether the airline learns of it on the aircraft or after the aircraft has landed, and disseminate the information as appropriate. Additionally, the Task Force suggests airlines consider allowing passengers more than one way to report such incidents to allow passengers to select the method that is most comfortable for them.

2. **Obtain Alleged Offender and Witness Contact Information:** In order for the FBI to successfully investigate and resolve a case involving an incident of in-flight sexual misconduct, in addition to the victim's contact information, the identity and contact information of the alleged offender and any witnesses to the incident are crucial. There are several ways that such information can be obtained, including requesting a passengers'

boarding pass or government issued identification, or consulting the seat map (if available). The Task Force noted that while obtaining contact information, flight attendants should avoid interviewing the alleged offender or witness and leave it to law enforcement who are trained to conduct interviews.

***Recommendation:*** The Task Force recommends that airlines have a procedure to identify and to obtain the contact information of the alleged offender and any witnesses to provide to law enforcement to help support the investigation. Applicable employees should be trained on the policy and procedure around the collection of the information.

3. **Segregate Sexual Misconduct Incidents in Airline Records:** Whenever an incident involving passengers occurs on an aircraft, most airlines require the flight attendant to file an incident or irregularity report with the details of the incident. However, the Task Force found that these forms rarely allow for the identification of “sexual misconduct,” which contributes to the difficulty in identifying data points and establishing the prevalence of sexual misconduct. The Task Force discussed whether airline incident or irregularity reports should include a subcategory for in-flight sexual misconduct incidents involving minors, indicate if the passengers were intoxicated or other relevant information. The Task Force also noted that Federal regulations do not require airlines to maintain incident or irregularity reports but if an airline develops its own processes for incident or irregularity reporting, the FAA ensures that they handle the reports in accordance with these processes through approved/accepted operating manuals.

***Recommendation:*** The Task Force encourages airlines to ensure that any incident or irregularity report specifically allows for the identification of an incident of sexual misconduct, whether the incident involved a minor, and whether law enforcement was requested. This would allow airlines to better track the handling of sexual misconduct allegations.

4. **Contact Law Enforcement When Incidents of Sexual Misconduct are Reported:** The Task Force agreed that airline employees should never be in the role of making a legal judgment as to whether certain conduct constitutes a crime or is legally actionable. The Task Force also noted that airlines sometimes need to balance between respecting a victim’s request not to report and the importance of informing law enforcement of the incident. The airline survey further revealed that airlines generally do not contact law enforcement every time that they learn of an in-flight sexual misconduct incident, especially if they learn of it after the aircraft has landed. At the same time, the Task Force recognized that, at times, passengers may report incidents of in-flight sexual misconduct to gate agents or customer service representatives and not the flight attendant. There was also a recognition that some victims report to sources other than airlines (for example, DOT, airport police, or local law enforcement) and these entities do not always forward such reports/complaints to the FBI.

***Recommendation:*** The Task Force encourages airlines to have a policy and procedure of informing law enforcement when incidents of sexual misconduct are reported to the airline irrespective of the incident being reported to the airline during the flight or after the flight. To

ensure the effectiveness of reporting, airlines may find it beneficial to consult with their local law enforcement agency when developing the airline's reporting policies.

**Recommendation:** The Task Force recommends that local law enforcement, airport security, and DOT (OST and FAA) forward any complaints that they receive, alleging in-flight sexual misconduct, to the FBI.

## 7.5 Data Collection

The Task Force considered different data collection methodologies and sources of data that would effectively provide information on instances of alleged sexual misconduct onboard aircraft. The Task Force focused on how best to collect data on incidents of in-flight sexual misconduct in a manner that protects the privacy and confidentiality of individuals involved in incidents of alleged sexual misconduct and precludes the release of data that publicly identifies an individual air carrier to enable better understanding of the frequency and severity of such misconduct.

1. **Sources of Data:** The Task Force determined that the FBI is best suited to receive data on incidents of in-flight sexual misconduct reported by members of the public, airlines, local law enforcement, other Federal agencies, airports or other interested parties.<sup>110</sup> The Task Force recognized the FBI's commitment to track such incidents consistently and effectively. The Task Force also recognized that good coordination among the FBI, local law enforcement, airlines and DOT (OST and FAA) is imperative to improving the quality of data collected on incidents of this nature. The Task Force recognized that there could be gaps in the FBI data if a victim only reported the incident to the airline, and the Task Force discussed whether airlines should review internal data to ensure their policies and procedures are effective. Similarly, the Task Force recognized that DOT (OST and FAA) does not currently refer all reported incidents of in-flight sexual misconduct to the FBI. The Task Force noted that national surveys, such as the NCVS, are the best method to determine prevalence but recognizes that such surveys are expensive and time consuming.

**Recommendation:** The Task Force recommends that the FBI maintain data on the number of reported in-flight sexual misconduct incidents received from members of the public, airlines, local law enforcement, other Federal agencies, airports or other interested parties. The Task Force also recommends that DOT (OST and FAA) refer all incidents of in-flight sexual misconduct to the FBI. The Task Force is not opining on whether a national survey should be conducted to supplement this data.

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<sup>110</sup> Under Section 339B, the Attorney General of the United States is required to establish a streamlined process for individuals involved in incidents of alleged sexual misconduct onboard aircraft to report such allegations to law enforcement in a manner that protects the privacy and confidentiality of the individuals involved. The FBI maintains a tip line where members of the public can report incidents of in-flight sexual misconduct. The toll-free tip line is 1-800-call-FBI and tips can also be submitted online at <https://tips.fbi.gov>. In addition, the FBI has a process in place to track the information reported and assess for any action deemed appropriate.

2. **Identify Sexual Assault Incidents in FAA records:** The Task Force learned that the FAA receives reports of incidents of in-flight sexual assault through a number of ways, including passenger complaints, reports to ATC, or through routine airline inspections. The Task Force also learned that the FAA does not coordinate internally to share information or data related to incidents of in-flight sexual assault, and there is currently no system in place by which these incidents can be identified and tracked separately from general complaints involving interference with pilots and flight attendants.

**Recommendation:** The Task Force recommends that the FAA review its complaint intake process and ensure that incidents of in-flight sexual assault can be identified.

3. **Use of Data for Law Enforcement Referrals:** The Task Force concluded law enforcement is better able to investigate incidents of in-flight sexual misconduct when airlines collect contact information from the individual who experienced in-flight sexual misconduct, the alleged offender, and witnesses if any.

**Recommendation:** The Task Force encourages the airlines to have a policy and procedures to identify the victim, alleged offender and any witnesses and obtain their contact information to provide to law enforcement.

4. **Use of Data for Airline Training Programs:** The Task Force found that airlines could use internally held data to highlight patterns and identify ways to develop more effective training programs. The Task Force identified various data points that would be useful for airlines, such as how the airline became aware of the incident; the type of incident and whether drugs or alcohol were involved; flight information; information about the victim (passenger, employee, minor) and offender; and whether law enforcement was requested and/or involved. The Task Force also found that airlines that rely on regional code share partners do not always share data on in-flight sexual misconduct with its codeshare partners. Especially where an incident of in-flight sexual misconduct is reported after the flight has landed, passengers are more likely to contact the airline with whom they purchased their ticket, as they are not aware of the code share agreement. Shared data among an airline's partners will serve to enhance training and reporting procedures.

**Recommendation:** The Task Force encourages airlines to utilize data on incidents of sexual misconduct that are reported to the airline to inform the airline's training and policy development on in-flight sexual misconduct. The Task Force also encourages airlines to share their data, and resulting policies and procedures, with their regional airline partners.

## 7.6 Training

The Task Force noted that data on incidents of sexual misconduct collected by public sources such as the FBI, as well as internal airline data that is not shared with outside sources, are important tools for training development and updates. The Task Force recognized that training on the issue of addressing sexual misconduct will evolve over time based on what is learned from the data. As the data collection improves, airlines will be better able to determine how best to design or update training for its employees.

The Task Force considered ways that airlines can enhance their training programs to prepare their employees better to identify and report incidents of in-flight sexual misconduct. The Task Force discussed and analyzed airlines' current training practices. The Task Force also considered how other industries respond to allegations or reports of sexual misconduct by passengers onboard aircraft.

1. **Training Airline Employees on How to Address Incidents of In-Flight Sexual**

**Misconduct:** The Task Force recognized that training of airline employees, as appropriate to their duties, on addressing in-flight sexual misconduct is a best practice.

**Recommendation:** The Task Force recommends that airlines provide training on addressing in-flight sexual misconduct to their flight attendants, pilots and other personnel charged with or involved in responding to and/or reporting incidents of sexual misconduct.

2. **Key Elements of Training:** The Task Force acknowledged that trauma-informed training on communicating with individuals who have experienced in-flight sexual misconduct, as well as policies and procedures on how to respond and report incidents of sexual in-flight misconduct, are important. The Task Force considered recommending training content, length and method (in-person, web based, etc.) but recognized the benefits of providing airlines flexibility in these areas.

**Recommendation:** The Task Force agreed that the key elements of training should include as appropriate to the duties of the airline employee: (i) the standardized definition of "sexual misconduct," as adopted by the airline; (ii) sensitivity training, (iii) policies and procedures on responding to incidents of in-flight sexual misconduct, and (iv) policies and procedures on airline reporting (internal and external) and data collection practices.

# APPENDIX A

## Section 339 A of the FAA Reauthorization Act of 2018

17 **SEC. 339A. NATIONAL IN-FLIGHT SEXUAL MISCONDUCT**  
18 **TASK FORCE.**

19 (a) ESTABLISHMENT OF TASK FORCE.—The Sec-  
20 retary of Transportation shall establish a task force, to  
21 be known as the “National In-Flight Sexual Misconduct  
22 Task Force” (referred to in this section as “Task Force”)  
23 to—

24 (1) review current practices, protocols and re-  
25 quirements of air carriers in responding to allega-



1        tions of sexual misconduct by passengers onboard  
2        aircraft, including training, reporting and data col-  
3        lection; and

4            (2) provide recommendations on training, re-  
5        porting and data collection regarding allegations of  
6        sexual misconduct occurring on passenger airline  
7        flights that are informed by the review of informa-  
8        tion described in paragraph (1) and subsection  
9        (c)(5) on passengers who have experienced sexual  
10       misconduct onboard aircraft.

11       (b) MEMBERSHIP.—The Task Force shall be com-  
12       posed of, at a minimum, representatives from—

13            (1) Department of Transportation;

14            (2) Department of Justice, including the Fed-  
15        eral Bureau of Investigation, Office of Victims for  
16        Crimes, and the Office on Violence Against Women;

17            (3) National organizations that specialize in  
18        providing services to sexual assault victims;

19            (4) labor organizations that represent flight at-  
20        tendants;

21            (5) labor organizations that represent pilots;

22            (6) airports;

23            (7) air carriers;

24            (8) State and local law enforcement agencies;

25        and

1           (9) such other Federal agencies and stakeholder  
2           organizations as the Secretary of Transportation  
3           considers appropriate.

4           (c) PURPOSE OF TASK FORCE.—The purpose of the  
5           Task Force shall be to—

6           (1) issue recommendations for addressing alle-  
7           gations of sexual misconduct by passengers onboard  
8           aircraft, including airline employee and contractor  
9           training;

10          (2) issue recommendations on effective ways for  
11          passengers involved in incidents of alleged sexual  
12          misconduct to report such allegation of sexual mis-  
13          conduct;

14          (3) issue recommendations on how to most ef-  
15          fectively provide data on instances of alleged sexual  
16          misconduct onboard aircraft and to whom the data  
17          collected should be reported in a manner that pro-  
18          tects the privacy and confidentiality of individuals  
19          involved in incidents of alleged sexual misconduct  
20          and precludes the release of data that publically  
21          identifies an individual air carrier to enable better  
22          understanding of the frequency and severity of such  
23          misconduct;

24          (4) issue recommendations for flight attend-  
25          ants, pilots, and other appropriate airline personnel

1 on law enforcement notification in incidents of al-  
2 leged sexual misconduct;

3 (5) review and utilize first-hand accounts from  
4 passengers who have experienced sexual misconduct  
5 onboard aircraft; and

6 (6) other matters deemed necessary by the  
7 Task Force.

8 (d) REPORT.—Not later than 1 year after the date  
9 of enactment of this Act, the Task Force shall submit a  
10 report with its recommendations and findings developed  
11 pursuant to subsection (c) to the Secretary of Transpor-  
12 tation.

13 (e) PLAN.—Not later than 180 days after receiving  
14 the report required under subsection (d) the Secretary of  
15 Transportation, in coordination with relevant federal  
16 agencies, shall submit to appropriate committees of Con-  
17 gress a plan to address the recommendations in the report  
18 required under subsection (d). The Secretary of Transpor-  
19 tation shall make changes to guidance, policies and regula-  
20 tions, as necessary, within 1 year of submitting the plan  
21 required in this subsection.

22 (f) REGULATIONS.—Not later than 1 year after sub-  
23 mitting the plan required in this subsection, the Secretary  
24 of Transportation may issue regulations as deemed nec-  
25 essary to require each air carrier and other covered entity

1 to develop a policy concerning sexual misconduct in ac-  
2 cordance with the recommendations and findings of the  
3 Task Force under subsection (c).

4 (g) SUNSET.—The Task Force established pursuant  
5 to subsection (a) shall terminate upon the submission of  
6 the report pursuant to subsection (d).

## APPENDIX B

Senate Report (115-138) accompanying  
the Joint Explanatory Statement of the  
2018 Housing and Urban Development,  
and Related Agencies Appropriations Act

DIVISION L – TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND  
RELATED AGENCIES APPROPRIATIONS ACT, 2018

CONGRESSIONAL DIRECTIVES

Unless otherwise noted, the language and allocations set forth in the House report (House Report 115-237) and the Senate report (Senate Report 115-138) carry the same weight as the language included in this joint explanatory statement and should be complied with unless specifically addressed to the contrary in this division or joint explanatory statement. House report language and Senate report language, neither of which is changed by this joint explanatory statement, is a result of the 2018 appropriations agreement. The joint explanatory statement, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases where the House or the Senate has directed the submission of a report, such report is to be submitted to both the House and Senate Committees on Appropriations. The Department of Transportation and the Department of Housing and Urban Development are directed to notify the House and Senate Committees on Appropriations seven days prior to the announcement of a new program, initiative, or authority. Any reprogramming requests must be submitted to the Committees on Appropriations no later than June 30, 2018.

Calendar No. 185

115TH CONGRESS } 1st Session }	SENATE	{ REPORT 115-138
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TRANSPORTATION, AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS BILL, 2018

JULY 27, 2017.—Ordered to be printed

Ms. COLLINS, from the Committee on Appropriations, submitted the following

REPORT

[To accompany S. 1655]

The Committee on Appropriations reports the bill (S. 1655) making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2018, and for other purposes, reports favorably thereon and recommends that the bill do pass.

Amounts of new budget (obligational) authority for fiscal year 2018

Total of bill as reported to the Senate .....	\$60,058,000,000
Amount of 2017 appropriations .....	61,437,017,000
Amount of 2018 budget estimate .....	47,928,180,000
Bill as recommended to Senate compared to—	
2017 appropriations .....	– 1,379,017,000
2018 budget estimate .....	+ 12,129,820,000

## COMMITTEE RECOMMENDATION

The Committee recommends \$1,040,000 for the Immediate Office of the Deputy Secretary, which is equal to the fiscal year 2017 enacted level.

## OFFICE OF THE GENERAL COUNSEL

## PROGRAM DESCRIPTION

The Office of the General Counsel provides legal services to the Office of the Secretary, including the conduct of aviation regulatory proceedings and aviation consumer activities, and coordinates and reviews the legal work in the chief counsels' offices of the operating administrations. The General Counsel is the chief legal officer of the Department and the final authority on all legal questions.

## COMMITTEE RECOMMENDATION

The Committee recommends \$20,555,000 for expenses of the Office of the General Counsel for fiscal year 2018. The recommended funding level is \$217,000 less than the fiscal year 2017 enacted level.

*Sexual Assault Rules and Guidelines.*—The Committee remains concerned about the adequacy of response to incidents of sexual assault and sexual harassment that take place onboard commercial aircraft. All passengers should be able to travel without the worry of being sexually assaulted. However, there is limited data on the prevalence of sexual assault and sexual harassment committed on commercial aircraft and a lack of guidance and training for airline personnel to respond to such incidents.

The Committee directs the Office of Aviation Enforcement and Proceedings, in conjunction with the FAA, to establish Federal rules and guidelines, based on best practices, for air carriers to respond to and address sexual assault and sexual harassment onboard commercial aircraft within 1 year of enactment of this act. The Federal rules and guidelines shall include: (1) initial and annual recurrent training for flight attendants, pilots, and other individuals who are employees or contractors of the air carrier that respond to or address sexual assault and sexual harassment of passengers, employees, and contractors of the air carrier onboard commercial aircraft; (2) timely reporting by air carriers of sexual assault and sexual harassment onboard commercial aircraft, which incorporates privacy protections for victims; and (3) a program to collect, maintain, and make publically available data from air carriers on the incidence of sexual assault and sexual harassment onboard commercial aircraft in a manner that maintains privacy protections for individuals and allows for confidential reporting.

To develop these Federal rules and guidelines, the Office of Aviation Enforcement and Proceedings shall establish the National In-Flight Sexual Assault Task Force [Task Force] to provide recommendations to the Secretary on best practices and protocols for air carriers relating to training, reporting, and data collection. The task force shall include the Department of Justice, including the Office on Violence Against Women; the Department of Health and Human Services; national organizations which specialize in pro-



viding services to sexual assault victims and responding to and addressing sexual assault and sexual harassment; national consumer protection organizations; national travel organizations; labor organizations which represent flight attendants and pilots; State and local law enforcement agencies; airports; and air carriers. Within 180 days of enactment of this act, the Office of Aviation Enforcement and Proceedings shall submit an initial report to the House and Senate Committees on Appropriations on the Task Force's recommendations.

*Consumer Protections.*—The Department has the authority and duty to protect consumers from unfair or deceptive practices and to ensure safe and adequate service related to air transportation. To that end, the FAA Extension, Safety and Security Act Authorization bill of 2016 directed the Department to promulgate regulations to require air carriers to refund fees for delayed baggage, as well as to address adjoining seats for children and their parents within 1 year of the date of enactment. There has been no action taken to address these consumer fairness issues, which were due to be finalized by July 16, 2017. The failure to address these Congressional mandates in a timely manner is unacceptable and allows airlines to continue to take advantage of the traveling public with unreasonable fees on baggage, and on parent's ability to sit with and care for their children in flight. Therefore, the Committee directs the Secretary to take immediate action to implement these two regulatory actions.

Further, there have been recent high-profile incidents in which commercial airline employees have allowed conflicts to escalate into violent acts against customers. These incidents have led to increased demand for additional consumer protection measures, particularly with regard to overbooked flights. DOT's regulations require airlines to inform and compensate passengers who are bumped from their flights involuntarily. Air carriers are also required to provide boarding priority rules and criteria for determining which passengers will be denied boarding on oversold flights, and airlines must provide compensation to customers who are involuntarily bumped from their flights. The Secretary testified that she is evaluating commercial airline policies on this issue and whether additional limitations should be placed on overbooking by commercial airlines. The Committee is interested to know these findings and conclusions and directs the Secretary to report to the House and Senate Committees on Appropriations once such assessment is completed.

#### OFFICE OF THE UNDER SECRETARY FOR POLICY

##### PROGRAM DESCRIPTION

The Under Secretary for Policy is the chief policy officer of the Department and is responsible for the analysis, development, and review of policies and plans for domestic and international transportation matters. The Office administers the economic regulatory functions regarding the airline industry and is responsible for international aviation programs, the essential air service program, airline fitness licensing, acquisitions, international route awards,

# APPENDIX C

## Charter of the National In-Flight Sexual Misconduct Task Force

## CHARTER OF THE NATIONAL IN-FLIGHT SEXUAL MISCONDUCT TASK FORCE

### A SUBCOMMITTEE OF THE AVIATION CONSUMER PROTECTION ADVISORY COMMITTEE U.S. DEPARTMENT OF TRANSPORTATION

1. **SUBCOMMITTEE'S OFFICIAL DESIGNATION:** The subcommittee shall be known as the National In-Flight Sexual Misconduct Task Force (Task Force).
2. **AUTHORITY:** This charter establishes the Task Force as a subcommittee of the Aviation Consumer Protection Advisory Committee, which is an advisory committee established in accordance with provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. 2.
3. **OBJECTIVES AND SCOPE OF ACTIVITIES:** The Task Force shall review current practices, protocols and requirements of air carriers in responding to and reporting allegations of sexual misconduct by passengers on board aircraft. If appropriate, the Task Force will also provide recommendations to the ACPAC for consideration for the Secretary of the U.S. Department of Transportation (the Secretary) on best practices relating to training, reporting, and data collection regarding incidents of sexual misconduct by passengers onboard commercial aircraft.
4. **DESCRIPTION OF DUTIES:** The Task Force will carry out the following tasks, issuing specific recommendations where necessary:
  - a. Review and evaluate existing ways for passengers involved in incidents of sexual misconduct by other passengers onboard commercial aircraft to report such allegations to the carrier;
  - b. Review and evaluate air carriers' existing training protocols and identify best practices to address incidents of sexual misconduct onboard commercial aircraft;
  - c. Review and evaluate existing reporting protocols and identify best practices for air carriers to timely report (or facilitate the timely reporting of) incidents of sexual misconduct by passengers onboard commercial aircraft to law enforcement authorities, ensuring privacy protections for victims;
  - d. Review and evaluate air carriers' existing data collection practices, if any, and identify effective methods to collect, maintain, and make publicly available data on incidents of sexual misconduct by passengers onboard commercial aircraft in a manner that maintains privacy protections for individuals and precludes the release of data that publicly identifies an individual carrier;
  - e. Review and utilize first-hand accounts from passengers who have experienced sexual misconduct onboard commercial aircraft; and

- f. Review any other air carrier practices addressing incidents of sexual misconduct by passengers on board commercial aircraft, if needed.
5. **OFFICIAL TO WHOM THE TASK FORCE REPORTS:** The Task Force shall report its recommendations and findings to the ACPAC through the ACPAC Chair. The report will be made available to the public.
6. **SUPPORT:** The Office of the General Counsel serves as Sponsor of the Task Force.
7. **DESIGNATED FEDERAL OFFICER AND TASK FORCE CHAIRPERSON:**
  - a. The Assistant General Counsel for Aviation Enforcement and Proceedings, or designee, will serve as the DFO for the Task Force.
  - b. The Chairperson(s) of the Task Force shall be designated by the DOT General Counsel from among the individuals appointed to the Task Force.
  - c. The DFO approves or calls the Task Force meetings, develops and approves the agenda in advance in consultation with the Task Force Chairperson(s). The DFO or a delegate must be present at each Task Force meeting. The DFO chairs meetings when directed to do so by the official to whom the Task Force reports and has the authority to adjourn meetings whenever such action is deemed to be in the public interest. The DFO works with the Chairperson(s) to maintain order.
  - d. The Chairperson conducts each meeting using generally accepted meeting management techniques, provides an opportunity for participation by each member and, ensures adherence to the agenda, works with the DFO to maintain order, and prepares any recommendations to be submitted to the ACPAC.
8. **MEETINGS:**
  - a. Frequency: Meetings will be held in Washington, D.C., at the discretion of the DFO. It is anticipated that the Task Force will meet at least twice during a 12-month period following the Task Force establishment.
  - b. Participation of the Public: Meetings may not be open to the public to the extent necessary to protect the privacy of victims of sexual assault. Subcommittee meetings are not required to be open to the public so long as the subcommittee is not reporting its recommendations directly to a Federal agency or official, and its recommendations will not be adopted by its parent committee (i.e., the ACPAC) without further deliberations by that parent committee. 41 CFR § 102-3.145.
9. **DURATION:** One Year.
10. **TERMINATION:** The Task Force shall terminate within 1 year of formation or earlier at the discretion of the Secretary or designee.

11. **MEMBERSHIP AND DESIGNATION:**

- a. The Task Force will comprise individuals appointed by the Secretary or designee and will include representatives of:
  - i. Department of Transportation;
  - ii. Department of Justice, including the Federal Bureau of Investigations, Office of Victims of Crime, and the Office of Violence against Women;
  - iii. Department of Health and Human Services;
  - iv. National organizations specializing in providing services to sexual assault victims;
  - v. National consumer protection organizations;
  - vi. National travel organizations;
  - vii. Labor organizations representing flight attendants and pilots;
  - viii. State and local law enforcement agencies;
  - ix. Airports; and
  - x. Air carriers.
- b. Members serve at the pleasure of the Secretary or designee and may be replaced at any time for any reason, including non-participation. Members' terms shall commence when they are appointed by the Secretary or designee and shall not exceed 1 year.

12. **REPORTS:** The Task Force shall submit a report to the ACPAC with recommendations, if any, concerning best practices and protocols on training, reporting, and data collection related to incidents of sexual misconduct by passengers on board commercial aircraft. The contents of this report shall be public and will receive full review, deliberation, and proper consideration by the ACPAC before any final recommendations are reported to any Federal officer.

13. **FILING DATE:** The filing date of this charter is February 11, 2019. Unless renewed, it will expire on February 11, 2020.

# APPENDIX D

## National In-Flight Sexual Misconduct Task Force Membership

## **National In-Flight Sexual Misconduct Task Force Membership**

1. Allison Ausband, Senior Vice President for In Flight Service, Delta Air Lines, as representative of airlines.
2. Christopher Bidwell, Vice President of Security, Airports Council International-North America (ACI-NA), as representative of airports.
3. Katherine Chon, Director of Office on Trafficking in Persons, HHS, as representative of HHS.
4. Darlene Hutchinson Biehl, Director of Office for Victims of Crime, DOJ, as representative of DOJ's Office for Victims of Crime.
5. Judith S. Kaleta, Deputy General Counsel, DOT, as DOT representative and Chair of Sexual Misconduct Task Force.
6. David L. Maggard, Chief, Los Angeles Airport Police, as representative of state and local law enforcement agencies.
7. Sunitha Menon, Chief of Consulting Services Operations, Rape, Abuse and Incest National Network (RAINN), as representative of national organizations providing services to sexual assault victims.
8. Lyn Montgomery, President, Transport Workers Union – Local 556, as representative of labor organizations representing flight attendants.
9. Kaori Paris, United Airlines Pilot, Air Line Pilots Association (ALPA), as representative of labor organizations representing pilots.
10. Eben Peck, Executive Vice President of Advocacy, American Society of Travel Advisors (ASTA), as representative of national travel organizations.
11. Sharon Pinkerton, Senior Vice President for Legislative and Regulatory Policy, Airlines for America, as representative of airlines.
12. Special Agent Gabriela Betance, Program Manager of International Violent Crimes, FBI, as representative of the FBI (*replaced Special Agent Matthew Ploskunak*).
13. Frances Smith, Adjunct Fellow, Competitive Enterprise Institute, as representative of consumers.
14. Laura Rogers, Acting Director of Office on Violence Against Women, DOJ, as representative of DOJ's Office on Violence Against Women (*replaced Katherine Sullivan*).

# APPENDIX E

## FBI Be Air Aware Campaign Poster



# BE AIR AWARE

**SEXUAL ASSAULT**

on an **AIRCRAFT**

is a

**FEDERAL CRIME**

If you think you are a victim of sexual assault aboard an aircraft, report the incident to your flight crew and to the FBI at [tips.fbi.gov](https://tips.fbi.gov) or **1-800-CALL-FBI**, or contact your local FBI office.



## APPENDIX F

### Alaska Airlines In-flight Magazine (Crew and Guest Safety)



# Your safety and comfort

## SEATS

- Seat belts must be fastened whenever the "FASTEN SEAT BELT" sign is on. Keep your seat belt fastened at all other times when seated, in case of rough air.
- Seatbacks and tray tables must be in the upright, locked position during taxi, takeoff and landing.
- Seat-belt extenders are not allowed in exit rows. They can tangle and obstruct access to exit doors.

## CARRY-ONS

- All carry-on bags must be placed under a seat or in an overhead bin for takeoff and landing.
- Prior to takeoff and landing, service items provided by our inflight team must be picked up.

## LAVATORY

- Guests are requested to use the lavatory in their assigned cabin.

## PETS

- Pets must remain in carrier for entire flight. Carrier must be stowed for taxi, takeoff and landing.

## CREW AND GUEST SAFETY

- Under federal law, no person may assault, threaten, intimidate or interfere with crew members in the performance of their duties aboard an aircraft. Penalties for crew interference include fines up to \$11,000, imprisonment or both. An incident report may be filed with the FAA regarding a guest's behavior.
- We respect the privacy and well-being of our guests and employees. We do not tolerate inappropriate verbal, digital or physical conduct of any kind, including sexual harassment, invasive photography, and assault. Please report unwelcome behavior to an employee immediately. Any crime committed onboard is considered a federal offense.

## USING YOUR DEVICES

We know use of your electronic devices is important, and we've adjusted our procedures to give you more time with those devices.

### Allowed on the ground and in the air

- Laptops (must be stowed for taxi/takeoff/landing)
- Tablets/smartphones (Airplane Mode after door closure)
- Wireless mouse/keyboard
- e-readers
- Media/CD/DVD players
- Noise-canceling and Bluetooth headphones
- Cellphones (prior to door closure only)

## TRAVELING WITH INFANTS AND CHILDREN

- To be used onboard, your child-restraint system must conform to all applicable federal motor vehicle-safety conditions, and the restraint must be certified for use in motor vehicles and aircraft with an FAA-approval sticker.
- Some restrictions for child-restraint systems apply based on seat locations and flight numbers. Visit <http://bit.ly/InfantTravel> for details.

## ALCOHOL AND TOBACCO

- Alcohol may not be consumed aboard an aircraft unless it has been provided by a flight attendant. No alcohol may be served to any person who appears to be intoxicated, or who is under 21 years of age.
- Guests are expected to drink responsibly and behave in a safe and respectful manner at all times.
- Smoking, chewing tobacco and electronic cigarette use are not permitted on any Alaska Airlines flight.

## DEVICES

- During taxi, takeoff and landing, larger electronic devices, such as laptops, must be stowed.
- Cellphones may be used while the boarding door is open until advised by your flight attendant that cell service must be turned off. Upon landing, your flight attendant will advise when cell service can be enabled.
- During flight, electronic voice communications of any kind (e.g., cell, FaceTime, Skype) are prohibited.
- Headphones must be worn when using electronic devices such as personal music players, Inflight Entertainment Tablets, handheld games, etc.

## OTHER PROHIBITED ITEMS

- We prohibit the use of items that do not meet FAA Regulations or Company regulations. This includes the use of seat-belt extensions not provided by Alaska Airlines, devices that restrict the recline of seats, self-heating meals or beverages, air filters placed on overhead vents and personal air-purifying devices.

### Not allowed during flight

- Voice calls of any kind, including VoIP
- Devices with cell service enabled
- AM/FM radios or TVs
- Personal air purifiers
- Remote-control toys
- Electronic cigarettes

The Federal Aviation Administration (FAA) and Alaska Airlines have set these rules and regulations to assure your safety and comfort.

## CONTACT US

Customer care:  
800.654.5669  
(Mileage Plan,  
Customer Care)

Toll-free  
reservations:  
Within the U.S.  
and Canada:  
800.ALASKAAIR  
(800.252.7522)  
(TTY 800.682.2221)  
[alaskaair.com](http://alaskaair.com)

En Español:  
800.858.5525  
From Mexico:  
001.800.252.7522

Alaska Airlines  
Vacations:  
844.762.0087  
[vacations.alaska-air.com](http://vacations.alaska-air.com)

# APPENDIX G

IATA Sample Passenger Awareness  
Leaflet, IATA UNRULY  
PASSENGER PREVENTION AND  
MANAGEMENT 2ND EDITION,  
JANUARY 2015.

# *Enjoy your flight and allow others to enjoy theirs!*



## Welcome on board!

We hope that you will enjoy your flight and of course allow others to enjoy theirs.

All passengers have the right to safe, secure and comfortable travel on board our aircraft. Unruly or disruptive behavior would ruin this experience and could also be traumatizing for passengers or crew.

### Unruly behavior prior to flight:

If unruly or disruptive behavior is noticed prior to the flight, please be aware that transport may be denied.

### Unruly behavior during the flight:

If such behavior is demonstrated during the flight, please be aware that there may be serious consequences to these actions. The aircraft may divert and make an unscheduled landing, the authorities may meet the flight, and the person responsible for the unruly or disruptive behavior may be arrested, fined, charged and/or prosecuted.

It is for this reason that we ask all passengers to always:

1. Follow crewmember instructions promptly;
2. Respect your crewmembers and fellow passengers;
3. Behave in a safe and appropriate manner;
4. Refrain from endangering the safety of the aircraft or its occupants.

## APPENDIX G: IATA Sample Passenger Awareness Leaflet



# Offences and other acts committed on board aircraft

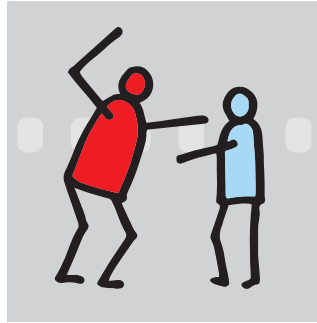
Under the [insert applicable law(s) and/or regulation(s)] the following are considered as unacceptable behaviors on board:

1. **Assault and Other Acts of Interference Against a Crew Member on Board a Civil Aircraft**
2. **Assault and Other Acts Endangering Safety or Jeopardizing Good Order and Discipline on Board a Civil Aircraft**
3. **Other Offences Committed on Board a Civil Aircraft**

Examples of these offences or acts include:

- Harassment
- Verbal abuse
- Physical assault
- Sexual offences and/or lewd behavior
- Intimidating behavior
- Intoxication or disorderly conduct
- Refusing to follow crew instructions
- Ignoring smoking regulations
- Tampering with smoke detectors
- Damaging the aircraft or on board equipment (includes theft)
- Endangering an aircraft occupant and/or the safety of flight
- Using a portable electronic device when prohibited to do so

## Offenses to avoid:



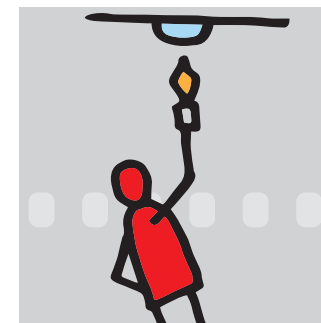
Assaulting, intimidating, threatening a crew member or passenger



Smoking anywhere on board, including in the lavatories



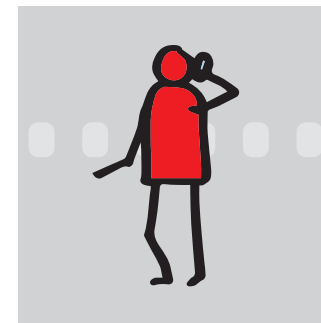
Refusing to follow instructions from the crew



Tampering with the smoke detectors



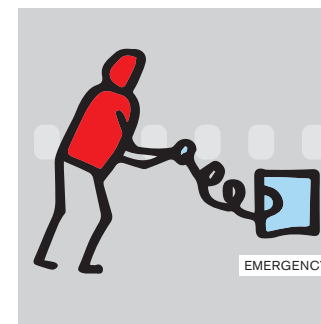
Intoxicated or disorderly conduct or consuming alcohol which was not provided by crew members



Using a portable electronic device when not permitted to do so



Engaging or displaying in any indecent or lewd behavior



Removing or damaging safety or emergency equipment, the aircraft or property on board

# APPENDIX H: FBI Active Shooter Event Quick Reference



## FBI Active Shooter Event Quick Reference

**When law enforcement arrives:**

- Remain calm and follow instructions.
- Drop items in your hands. (e.g., bags, jackets)
- Raise hands and spread fingers.
- Keep hands visible at all times.
- Avoid quick movements toward officers, such as holding on to them for safety.
- Avoid pointing, screaming or yelling.
- Do not ask questions when evacuating.

**Information to provide to 911 operators:**

- Location of the active shooter.
- Number of shooters.
- Physical description of shooters.
- Number and type of weapons shooter has.
- Number of potential victims at location.

**For questions or additional assistance contact:**

Your local FBI Office:

FBI Headquarters National Press Office: (202) 324-3691



**Federal Bureau of Investigation**  
935 Pennsylvania Avenue, NW  
Washington, DC 20535

U.S. Department of Justice  
Federal Bureau of Investigation



## ACTIVE SHOOTER EVENT

### QUICK REFERENCE GUIDE

An active shooter is an individual actively engaged in killing or attempting to kill people in a populated area.

- ▶ *Victims are selected at random.*
- ▶ *Event is unpredictable and evolves quickly.*
- ▶ *Knowing what to do can save lives.*

## ACTIVE SHOOTER EVENTS

When an Active Shooter is in your vicinity, you must be prepared both mentally and physically to deal with the situation.

**You have three options:****1 RUN**

- Have an escape route and plan in mind.
- Leave your belongings behind.
- Evacuate regardless of whether others agree to follow.
- Help others escape, if possible.
- Do not attempt to move the wounded.
- Prevent others from entering an area where the active shooter may be.
- Keep your hands visible.
- Call 911 when you are safe.

**2 HIDE**

- Hide in an area out of the shooter's view.
- Lock door or block entry to your hiding place.
- Silence your cell phone (including vibrate mode) and remain quiet.

**FIGHT 3**

- Fight as a last resort and only when your life is in imminent danger.
- Attempt to incapacitate the shooter.
- Act with as much physical aggression as possible.
- Improvise weapons or throw items at the active shooter.
- Commit to your actions. . . your life depends on it.

The first officers to arrive on scene will not stop to help the injured. Expect rescue teams to follow initial officers. These rescue teams will treat and remove the injured.

Once you have reached a safe location, you likely will be held in that area by law enforcement until the situation is under control and all witnesses have been identified and questioned. Do not leave the area until law enforcement authorities have instructed you to do so.