



Joint Letter from ATU International and ATU Local 265 to VTA Board of Directors



March 28, 2023

Board of Directors
Office of the Board Secretary
Santa Clara Valley Transportation Authority
3331 North 1st Street
San Jose, CA 95134
Attn: Patrick Burt, Chairperson

Re: Santa Clara Valley Transportation Authority/Samuel Cassidy – Investigative Findings

Dear Chairperson Burt:

As we work together to improve the safety and security of VTA workplaces for VTA's dedicated operating, maintenance and other employees, and for the passengers they serve, we are compelled to respond to the false narrative that there was nothing VTA could have known or done to prevent the May 26, 2021 mass shooting at the Guadalupe Yard facility.

The much anticipated “investigative” report issued on December 12, 2022, serves only to confirm the self-protective stance of the Agency to avoid any accountability or culpability for the tragic events that cost the lives of ten VTA employees.¹ As discussed below, the Agency's report fails to provide a full analysis of the circumstances and employee discontent that led to the tragedy, and is silent on any recommendations for preventing such tragedies in the future.

Fortunately, the leaders of Local 265, with the support of their International Union, immediately, and for the months that followed, responded to the tragedy by providing resources and counseling to the families of the stricken members and their co-workers. Critical support, led by California State Senator Dave Cortese and Santa Clara County Supervisor Cindy Chavez, led to legislation providing much need funding to provide vital mental health resources, employee and family support, and to address the shortfalls in VTA's employee assistance, safety and violence prevention programs.

Today, however, the VTA workplace is far from perfect and employees are not fully protected. But with the formation of a new federally mandated, state-funded labor-management safety committee charged with shaping the violence prevention policies, emergency preparedness procedures and joint training for both employees and managers, the foundations for a more secure and safe workplace are emerging. Through the newly formed “Resiliency Center,” agency and county-wide mental health resources, peer-to-peer counseling and the three state-funded mental health days, prospects to identify and address future dangers and distressed employees are in place.

¹ “The investigator concluded there is no evidence that any VTA employee or supervisor had prior knowledge that Sam Cassidy was planning a shooting in the workplace that could have been prevented by VTA. Although there were some interactions that caused feelings of concern among his fellow workers, they were not based on threatening words or actions by the shooter. He also had documented incidents of work-related issues that occurred over several years. None of them individually or collectively would have caused VTA to remove him from the workplace. We will never be able to know for certain why he committed these horrendous acts.” Summary Statement by Carolyn M. Gonot, General Manager/CEO DATE: December 12, 2022.

Despite this progress and partnership, there remains a deep layer of anger and distrust among the workers with the VTA for, in effect, using a “controlled investigation” to avoid any responsibility for what took place on May 26. It is clear to Local 265 that more work is needed, especially training and improved communications, to rebuild and maintain trust among our co-workers and management. The investigative report, as directed by the VTA Board, is unacceptable, insufficient and designed to get the agency “off the hook” in the face of ongoing litigation, when instead, it should have been used as an earnest attempt to remediate the conditions that led to the May 26 tragedy.

Missed Signals: Self Protective Report Finds No Accountability

In lieu of a careful analysis of what went wrong, what warning signs were missed, and what could have been done to prevent the shooting which took the lives of ten employees, VTA commissioned a study, narrow in scope, focused only on whether there was **specific evidence** to put the Agency on notice that employee Samuel Cassidy would commit a shooting on the property.

Framed at the outset as a “just the facts” examination, the investigator, as directed, stopped well short of a “root cause” analysis, criminal liability evaluation or, most importantly, recommendations for preventing such events in the future.

Contrary to statements by VTA spokespersons, this was not an “independent” investigation, and it failed to meet even the minimal requirements for an “investigation” as defined by the Federal Transit Administration: “the process of determining the causal and contributing factors of an accident, incident, or hazard, for the purpose of preventing recurrence and mitigating risk.”

Instead, the report, written in cold prose, was used as intended—to trumpet the investigator’s so-called findings, echoed repeatedly by VTA, that the VTA had no advance knowledge that the employee was planning a shooting.

Missed Signals and Inadequate Follow-Up

Significantly, the report omitted any discussion of VTA’s missed opportunities to address the behavioral “red flag” signs of discontent, distrust and “hatred” for VTA and certain employees that the shooter exhibited, over a long period, which might have led to temporary leaves of absence, stress management interventions, counseling or treatment.

In rejecting any accountability or culpability on the part of VTA, the investigator dismissed or diminished the import and impact of the disgruntled employee’s erratic and abusive actions, which led to repeated complaints by his co-workers that the employee “could go postal”. Most disheartening, critical employee witnesses were never contacted, despite claims to the contrary.

Rather, inexplicably, employee fears of the shooter “going postal” were labeled mere “concerns,” not worthy of action. Moreover, while referencing these incidents of verbal abuses, insubordination, overreactions and criticism of management, none were evaluated as potential non-compliance with VTA’s “Standards of Conduct” or “Violence Free Workplace Policy” to otherwise trigger meaningful interventions.

Inadequate Training and Responses

Co-workers' "feelings" about potential violence were discounted, and as inexplicably stated by VTA's spokesperson, insufficient by themselves to warrant any special actions. "We don't act on what someone thinks may happen," he said. Most telling, because of poorly drawn policies and/or inadequate training, several of Cassidy's immediate supervisors took limited or no action directly or through their managers to address "the shooter's" increasingly erratic behavior.

What is clear and cited in the investigative report is that Cassidy's supervisors and their managers were well aware of, and in some cases directly involved in dealing with, his increasingly hostile behavior. Yet none of his fellow employee complaints were dealt with properly by his supervisors or higher-level management, beyond some counseling, to address the immediate issues. They stood by and did not pursue a more robust response to address his obvious anger at fellow employees and hatred of the employer.

Relying on her determination that there was no direct evidence that Cassidy was planning a shooting in the workplace, the Investigator concluded that nothing could have been done to prevent the tragedy. Yet, we know there was a series of reassignments following the shooting. "We are not casting individual blame nor are we looking for vindictive retribution," stated ATU Local President John Courtney. But clearly, the VTA, because of failed policies, inadequate reporting systems and poor training, failed to address a volatile employee, and his anger escalated into unspeakable tragedy.

ATU and Local 265 Seeks Healing and Changes to Prevent Future Violence

Moving forward, the Union truly welcomes the new mental health services, the ongoing labor-management committee discussions, and the community support. Led by ATU Local 265, legislation providing much needed funding has underwritten a mental health Resiliency Center, contracts with specialized psychiatrists to assist employees, mental health days for distressed employees, and enhanced Critical Incident Support Teams to respond to various situations.

We are indeed grateful for the support and advocacy of Senator Cortese, Supervisor Chavez and others that led to the passage of SB 129 and the appropriation of \$20 million to improve employee safety and underwrite vital employee services. These changes, along with the continued access to Dr. Torres's PTSD program, are making a real difference.

But more, much more needs to be done. As the epidemic of violence against transit workers continues unabated, we call on the VTA, the FTA and indeed, all transit agencies to incorporate comprehensive "Violence Prevention Programs" into their Public Agency Transit Safety Plans.

We ask the VTA to join Local 265 and the ATU in demanding that the FTA issue a set of specific standard requirements for effective Violence Prevention Plans and Procedures as part of the plans required under 49 C.F.R. Part 673. Further, to demand that the FTA make additional funding available to the agencies to provide for effective and lasting implementation of these vital measures. When the current state funding runs out, this additional support will be critical to maintain and improve the current programs at the VTA.

We know, based on our own experience, best practices and FTA's funded research, that to be effective these plans must be developed in partnership with their employees' unions and at a minimum provide:

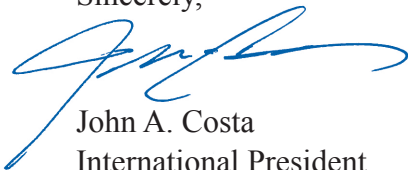
1. Requirements that all plans and programs be developed through labor-management committees, with shared responsibility and control over decision-making
2. Regular employee safety surveys
3. Clear and confidential incident-reporting systems
4. A chain of command and responsibility for timely responses
5. Direct involvement of the Union in addressing “difficult” employees
6. Dedicated administrators to ensure a timely response to complaints
7. Annual (semi-annual) risk assessments and required facility remediation
8. Regular and targeted training for employees and supervisors, covering violence prevention and “red flag” warning signs
9. Mental health and employee assistance program (EAP) resources, with union oversight

Together, in partnership with our sister agencies and the FTA, effective policies and programs can be established to improve the safety and security of members and the riders we serve. We owe it to those whose lives were lost in San Jose and to all the heroes serving our nation’s transit systems every day.

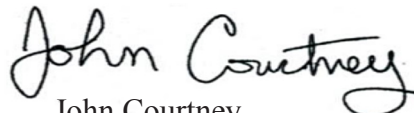
We stand ready to continue, not only the ongoing meetings in San Jose, but to pursue policies at the federal and state level to more effectively address violence in the workplace.

Please feel free to contact us to discuss and pursue these matters further.

Sincerely,



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cc: VTA Board of Directors
Carolyn M. Gonot, General Manager, VTA
Nuria Fernandez, FTA Administrator
Senator Dave Cortese
County Supervisor Cindy Chavez
Governor Gavin Newsom
ATU Local 265 Executive Board