

# Racial Profiling Resources

March 15th 2017

DéPree Hopkins

depree@pittsburghforpublictransit.org

---

## National Association of City Transportation Officials

### (NATCO) -

[http://transitcenter.org/wp-content/uploads/2017/02/NACTO\\_TC\\_Better-Buses\\_Boarding.pdf?utm\\_source=Board+Members%2C+Advocates%2C+MAAS%2C+Fare+Payment&utm\\_campaign=51b4d17c46-EMAIL\\_CAMPAIGN\\_2017\\_02\\_24&utm\\_medium=email&utm\\_term=0\\_b51decd32c-51b4d17c46-198020325](http://transitcenter.org/wp-content/uploads/2017/02/NACTO_TC_Better-Buses_Boarding.pdf?utm_source=Board+Members%2C+Advocates%2C+MAAS%2C+Fare+Payment&utm_campaign=51b4d17c46-EMAIL_CAMPAIGN_2017_02_24&utm_medium=email&utm_term=0_b51decd32c-51b4d17c46-198020325)

Payment is A Problem- "Paying a bus fare the traditional way—at the front door, with cash or a farecard—is time-consuming, taking nearly 5 seconds, and occasionally up to 9 seconds, per passenger. This conventional practice—driver fare control with front-door boarding—makes bus transit congestible, rather than a public good that improves as more people use it. As a result, more rider and driver time is lost on the highest-ridership routes and systems, exactly where transit should be performing best.

The impact can be seen at the level of entire systems: the slowest U.S. systems have the highest number of passenger boardings per hour of bus runtime. Cumulatively, bus operators in the U.S. spend at least six million hours at bus stops each year, directly costing agencies an estimated \$700 million, before accounting for the value of riders' time.

Since it is difficult for service planners to anticipate how much time will be spent at each stop on payment, cash payment in particular is a source both of expected and unexpected delay, adding hidden costs in the form of longer scheduled dwell times and layover times."

- Implementing Fare Inspection
  - Agents are randomly circulating through transit vehicles checking passengers for valid fares.

- 
- Some stations where there is high volume have implemented a “Paid Fare Zone,” enabling inspectors to check passengers before or after riding, enabling all door boarding w/o barrier (turnstile) control.
  - **San Francisco**
    - Fare inspection intentionally designed to not be “enforcement”
    - Conducted by unarmed inspectors trained to avoid conflicts.
    - Transit agencies can employ inspectors themselves rather than relying on a police department or other agency, avoiding labor and coordination issues across agency and municipal boundaries.

“A sensitive, sensible approach to inspection is key to creating an equitable system; rather than introducing additional policing into the bus system, inspection simply moves the task of checking that a fare is paid from the bus driver to a dedicated staff member. Moving fare collection from the bus driver to a dedicated staff force can also make bus operation safer by reducing the risk of assault on bus drivers.”

### **Boosting Community Relations with Transit Police-**

<http://www.masstransitmag.com/article/12159228/boosting-police-community-relations>

- Transit police departments have been developing policies, increasing training, and improving programs to build transit, boosting overnight and embracing community policing.
- According to Southeastern Pennsylvania Transportation Authority Chief of Police Thomas J. Nestel the third, “The unique difference between transit policing compared to municipal policing is that most of transit police are on foot with the customers, the riders, and the citizens. They are interacting with the police everyday.”
- Thomas alongside New Jersey Transit Chief of Police Christopher Trucillo stated that their message to police officers and their vision statement that everything they do has to be done with exceptional public service in mind.

- 
- They deal with larger quantity of people who are dealing with mental health issues, homelessness, and drug and substance abuse issues.
  - A lot of the people that deal with these experiences tend to congregate/navigate to and around transportation facilities.
  - Kenton W. Rainey, Bay Area Rapid Transit (BART) Chief of Police says, "They have greatly benefited from their partnership with National Alliance on Mental Illness (NAMI).
  - They have a full-time licensed social worker that works with them identifying those who are homeless and suffering from mental illness and connects them with various programs available in the community.
  - The officers also receive 40 hours of crisis intervention training.
  - Most agencies will only send their officers to 8 hours of training maybe 16.
  - Approximately 95% of Rainey's officers including civilian staff undergo this training in order to have a better understanding and empathy on how to approach situations dealing with those who suffer from mental illness.
  - Also, included in this training is a piece on de-escalation when it comes to use of force and training to prevent racial profiling.
  - In regards to the use of the force reporting system it is said that while there are a number of layers of approval, they have in place a civilian oversight and a police auditor that monitors all of the use of force incidents and have the ability to investigate or order further investigation.

### **Bay Area Transit's Suspicious Activity Reporting App Causes Racial Profiling, Privacy Concerns-**

<http://www.govtech.com/applications/Bay-Area-Transits-Suspicious-Activity-Reporting-App-Causes-Racial-Profilng-Privacy-Concerns.html>

- Released an app for smartphones allowing riders to easily report suspicious or disruptive behavior.

- 
- Civil Rights groups are apprehensive. They worry this tool could lead to more racial profiling and less privacy, not a safer ride.
  - “The Alameda-Contra Costa Transit District (AC Transit) officials said the free app, called "TipNow-AC Transit," allows riders to be "an extra set of onboard eyes and ears helping to promote rider safety and system security." Riders can choose between a number of icons, including "disruptive behavior," "theft," "suspicious activity," "vandalism" and "unattended package," to anonymously file reports.”
  - “Those reports will get routed to an AC Transit employee, who will then determine whether to alert Alameda County Sheriff’s deputies of the behavior or activity, said AC Transit board President Christian Peeples.”
  - The app is supposed to allow transit agency to gather more evidence in cases that are criminally prosecuted, especially at bus stops, where there may not be cameras present.
  - Zachary Norris, the executive director of the Ella Baker Center for Human Rights is concerned about how the app would be used.
  - “A 2015 review of BART’s smartphone app, BART Watch, by the East Bay Express revealed that users disproportionately complained about activities were criminal or not. Norris fears AC Transit will see similar results.”
  - "It's basically creating a vehicle for people to racially profile fellow riders," Norris said. "When we have an idea of safety based on suspicion and surveillance, it doesn't create the kind of safety we want or need, and it has resulted in a system of incarceration and poverty."
  - The ACLU of Northern California has also raised privacy concerns with the BART Watch app, which takes advantage of an iPhone feature called "background refresh" to gather information from users' phones even when the app is closed, said Matt Cagle, a policy attorney for the ACLU. He said users should be assured that the information gathered

---

from the app's developer won't be immediately turned over to law enforcement.

- "There should be safeguards in place to make sure data submitted by users don't become part of a suspicious reporting database," Cagle said.
- At this moment in time it is unclear how the TipNow program will be evaluated.

### **Transportation not Deportation Community Meeting**

#### **YWCA 733 Beatty St. Vancouver, Unceded Coast Salish Territories-**

<https://transportationnotdeportation.wordpress.com/2015/03/24/transportation-not-deportation-community-meeting-2/>

- Transit Police announced they will terminate their Memorandum of Understanding with Canada Border Services Agency
- Made verbal commitments about their operational protocol including:
  - In order for officers to initiate contact with CBSA they must receive permission from a Watch Commander.
  - They will not detain people found to be undocumented with no outstanding warrants in the absence of a criminal investigation.
  - For the purpose of fare enforcement they will work to determine an acceptable range of identification documents.
- The public hasn't as of yet seen directives in writing or the details of how they will be implemented and monitored.
  - Examples: No assurance that Transit Police won't share any personal, contact, or personal identity information with the CBSA.

- 
- “The absence of policy on information sharing could, for example, lead to Transit Police sharing someone’s address with CBSA putting people at risk of being detained shortly thereafter.”
  - “This is particularly concerning when taking into account CBSA spokeswoman Jennifer Bourque’s statement that “information sharing is covered under existing privacy legislation.”

## **When Fare Evasion leads to deportations**

### **Everyday routines are terrifying for immigrants**

<https://thinkprogress.org/amp/p/9945533d5429?gi=5efb14138571>

- “Ariel Vences-Lopez, a 23-year-old immigrant from Mexico, was on a light rail train in Minnesota earlier this month when a transit cop asked whether he was in the country illegally. [Another passenger](#) Ricardo Levins Morales filmed the incident and intervened, stopping the cop from further asking about the man’s immigration status.”
- In an incident report that was later released it was revealed that the Metro police used a stun gun on Vences-Lopez after his refusal to sit when he was asked and “kept shifting his body and blading his body toward officer.” When his arms were grabbed by police officers, “he pulled away and refused verbal and physical efforts to go the ground,” Minnesota Public Radio reported.
- The publication pointed out that Vences-Lopez gave a fake name to the police and obstructed an officer’s legal duties when booked on suspicion of fare evasion.
- Upon the Hennepin County Sheriff’s Office releasing him from custody he was turned over to ICE agency. He is currently awaiting deportation proceedings at the Sherburne County Facility in Minnesota.

- 
- Metro Transit Police Chief John Harrington stated, “There was no reference to his immigration status in the police reports, nor did MTPD notify ICE or any other agency of any immigration-related concerns.”
  - Chief Harrington’s department has since let go of the transit officer responsible for inquiring about Vences-Lopez’s immigration status.
  - Harrington has also voiced concern that the actions of that officer in his department contributed to Vences-Lopez’s detention.

### **Racial Profiling in Public Transit: Montreal Black Metro Rider Awarded \$23,000 by Human Rights Commission**

<http://www.crarr.org/?q=fr/node/19401>

- “The decision, which sets a major precedent not only for the amount of damages sought, but also for the systemic measures the Commission has ordered to address the problem of racial profiling within the public transit system, was announced today at a press conference in Little Burgundy, a center-city neighborhood. Measures include those related to staffing and proof of payment (POP) checks in public transit.”
- Mr.V who speaks English with limited understanding of French, heard something mumbled in French while rushing to catch his bus at the Lionel Grouix Metro Station. He didn’t realized that the voice he heard belong to an inspector of the Montreal Transit Authority (MTA) that was addressing him.
- What occurred next was very troubling, the inspector grabbed Mr.V and in seconds six other inspectors joined pushing him violently to a corner in the station. They proceeded to arrest him and drag him into a closed room without informing him of the reason for his arrest.
- “ In February 2010, CRARR and Desta, a local Black group, held a community meeting in Little Burgundy to discuss the MTA’s practice of selective POP checks and issuance of fines. It was only after attending this meeting that Mr. V. realized that his was not an isolated case. Like several other Black public

---

transit users, he mandated CRARR to file a civil rights complaint on his behalf for racial profiling. He also successfully fought the fine in municipal court.”

- “Last week, the Commission concluded that Mr.V. had indeed been a victim of racial profiling and other civil rights violations, including excessive use of force, detention, illegal search of his coat and bag, and abusive fine.”
- “The Commission ordered the MTA and four inspectors to pay \$15,000 in moral damages. In addition, the four inspectors were ordered to pay \$8,000 in punitive damages. In response to CRARR's claims, the Commission also ordered the MTA to:
  - Adopt policies which prohibit the use of racial profiling when checking public transit users for proof of payment;
  - Collect and publish, in a systematic fashion, data based on the race of individuals implicated in inspectors' interventions;
  - Adopt directives to allow for the detection and control of racial profiling actions among its inspectors
  - Enact measures to ensure that the hiring, evaluation and promotion of inspectors take into account cultural competencies.”

### **Stop Turning Public Transit into a Border Checkpoint**

<https://www.change.org/p/translink-and-transit-police-stop-turning-public-transit-into-a-border-checkpoint>

- Lucia Vega Jimenez, a Mexican migrant rode the SkyTrain home after working a night shift at a Vancouver hotel, on December 1st, 2013.
- Transit Police boarded the train she was on at approximately ten in the morning.
- Jimenez was stopped by them because she couldn't provide proof of payment. The situation, however escalated and Canadian Border Services Agency (CBSA) was called in.



- 
- “I understood that she had an accent when I spoke with her,” Transit Police Constable Jason Schuss later testified. “With that, I could tell she wasn't originally from Canada.”
  - “Three weeks after he turned Jimenez over to CBSA for deportation, she committed suicide in-custody.”

## **CTA Admin Process Webinar**

<https://docs.google.com/presentation/d/1N9Al7xsFVT7har0qbdbPmNI4vkINONf9tc18kh7AQuY/edit#slide=id.p8>

### **Transit Violations- Legislative History**

- “SB 1749 (January 2007) amended California Penal and Public Utilities Codes to allow San Francisco and Los Angeles to adopt local ordinances establishing administrative penalties for transit violations.”
- “Local legislation adopted September 2007 - Program implemented April 2008.”
- “SB 413 (December 2015) expanded authorization to include violations issued to minors.”
- “Local legislation adopted February 2016 – Program implemented April 2014.”

### **Benefits of Decriminalization**

- “Reduces burden on criminal court system.”
- “Provides more convenient and flexible payment and protest options.”
- “Revenue retained by issuing agency.”

### **Implementation**

- “Processing requirements outlined in PUC Section 99580 mirror those for parking violations – easily absorbed into existing system.”

- 
- “Leveraged existing Citations Processing system (Xerox) for noticing, payment processing and tracking.”
  - “Customer service, protest review and hearing duties absorbed by existing internal resources.”

## **Facts at a Glance**

### Muni Service

- **“over 225 million boardings annually”**
- **“Service Area: 47 square miles”**
- **“Service Area Population: 825,000 residents”**
- **“5 distinct transit modes  
(bus, trolley, cable car, light rail, historic streetcar)”**
- **“24 hour core network; most service 18 hours per day”**

### LA County Metro Service

- **“Service Area Population: 10m residents in LA County Bus.”**

### Bus:

- **“Over 290m boardings annually.”**
- **“1,433 square miles in service area”**
- **“15,967 bus stops”**
- **“170 bus routes”**
- **“2,248 bus fleet”**

### Rail:

- **“Over 106m boardings annually”**
- **“93 stations”**
- **“105 miles of service’**

- 
- **"4 light rail, 2 subway lines"**

### How do people pay?

- Muni:
  - "Cash at the front door"**
  - "All door boarding with Proof of Payment"**
  - "MuniMobile ticketing"**
  - "Ticket vending machines (subway only)"**
- LA County Metro:
  - "Bus"**
  - "Cash at Farebox"**
  - "All door boarding on Metro Silver Line only, tap card required"**
  - "Rail"**
  - "Ticket vending machines"**
  - "Tap Cards used at turnstiles or validators"**

### Fare Enforcement

- Muni:
  - "Proof of Payment" system**
  - "Initially limited to Muni Metro light rail vehicles and boarding platforms"**
  - "Expanded in 2012 to include all Muni vehicles in conjunction with implementation of All-Door Boarding "**
- LA County Metro:
  - Tap Card, smartphone scan verification**

### Citation Lifecycle – No Protest

- **"Citation issued by Fare Enforcement Officer"**
- **"Within 21 days:**

- 
- **Pay: online, by mail, phone, in-person; OR**
  - **Enroll in Community Service or Payment Plan Program (enrollment fees apply)**
  - **Transit School (LA Metro) - \$15 fine reduction"**
  
  - **"No payment received - additional notices sent - late penalties apply"**
  - **"If no payment received after noticing process is exhausted, citations are assigned to third-party vendor"**
  - **"Subject to exclusion order (LA Metro)"**

#### **Citation Lifecycle – Protest**

- **"Citation issued by Fare Enforcement Officer"**
- **"Request Administrative Review: online, by mail"**
- **"Administrative Review denied – 21 days to request Hearing: online, mail, in-person"**
  - **"Deposit required (equal to fine)"**
  - **"Low-income waiver available for deposit (required under state law)"**
- **"Administrative Hearing denied – 30 days to request de Novo hearing through Superior Court – filing fee required"**

#### **Public Transit not a Border Checkpoint: Interview with Omar Chu of the Transportation not Deportation Campaign**

<http://thevolcano.org/2015/03/22/public-transit-not-a-border-checkpoint-interview-with-omar-chu-of-the-transportation-not-deportation-campaign/>

- 
- **Volcano:** “What was the motivating issue that launched the Transportation not Deportation Campaign?”
  - **OC:** “Sanctuary Health and No One Is Illegal were hearing reports from people in detention that transit police were referring people to the Canadian Border Services Agency (CBSA), and David Ball wrote an article for the Tyee on transit police collaboration with immigration (“Transit Police Report Rider to Immigration Nearly Every Day,” July 10, 2014). So these groups started working together to try to figure out what was going on. As we learned more from research and Freedom Of Information (FOI) requests, we started to realize the extent of the collaboration between transit police and CBSA and started a campaign to ask that this be stopped.”
  - **Volcano:** “How significant was the case of Lucia Vega Jimenez, the Mexican woman who was stopped by transit police, turned over to CBSA, and died in detention while awaiting deportation?”
  - **OC:** “Of course, the inquest into the death of Lucia Vega Jimenez was huge because it brought to light the relationship between transit police and CBSA; it put it onto our radar. And the inquest into her death was valuable as we saw how the relationship played out in her case. Transit police constable Jason Schuss talked about his interaction with Lucia, how she had an accent and didn’t seem like she was from Canada. It really showed him carrying out an immigration investigation with the help of a CBSA person over the phone, rather than for simple fare evasion.”
  - **Volcano:** “As the FOI material started coming in, what did it reveal? What was the extent of the collaboration?”

- 
- **OC:** “Transit police received training from CBSA in 2013, and they had a Memorandum Of Understanding (MOU) that dates back to 2007. The success of the MOU was judged based on the amount of immigration arrests that were made under the partnership. It also revealed that transit police referred more people to CBSA than any other police agency in the province. So it seems that the purpose of this partnership was to garner as many arrests as possible.”
  - **Volcano:** “What are the main objectives of the campaign?”
  - **OC:** Essentially, we don’t want public transit to be a border checkpoint. We would like people to ride public transit without fear of deportation, so that means that we want transit police to cut off contact with CBSA, make sure that they are not sharing people’s information with CBSA, and they are not collaborating with CBSA in any way. We have 5 demands that make this clear and are available on our website (see <https://transportationnotdeportation.wordpress.com/demands/>).”
  - **Volcano:** “Why do transit police ask for identification and how does this shift into questions about immigration status?”
  - **OC:** “They claim that they only call CBSA in order to identify someone and only as a last resort. We say that there are plenty of other ways to identify people, that they do not need to call CBSA at all; and we are calling on them to accept a range of IDs. Police have to deal with issues of identity every day and they don’t tend to rely on calling CBSA; there are other means to identify someone and there is no reason to be calling immigration. The fact that they do call immigration on certain people is a result of racial profiling. That

---

was made clear in the testimony of Constable Schuss during the Lucia Vega Jimenez inquest.”

- **Volcano:** “In order to get to the root of this issue and make transit safe, it’s not just tearing up the MOU but maybe removing the police from the transit system altogether. Are you pushing for that?”
- **OC:** “As a campaign we are focused on the collaboration piece; we don’t want immigration enforcement on the Skytrain. We have 40 organizations and 1000s of individuals endorsing our 5 demands that focus on ending the partnership. Getting police off of transit is not something that we affirm but some members of the coalition might hold this view. Personally, in light of the shooting of Naverone Woods by transit police and what I’ve heard from members of VANDU, we see that there are many other concerns about transit police that would call into question the need for armed police on transit, and they are the only armed transit police in the country.”

### **Transportation not Deportation: A migrant justice victory in Vancouver**

<http://rabble.ca/podcasts/shows/talking-radical-radio/2015/03/transportation-not-deportation-migrant-justice-victory>

- “On this week’s episode of Talking Radical Radio, I speak with Daniel Tseghay and Daniel Wexel about the Transportation not Deportation campaign. It aims, in the wake of a particularly tragic case, to make public transit in the Vancouver area a place of safety and sanctuary for people regardless of their immigration status. And recently, they won a significant victory on the road to that goal.”

- 
- “Increasingly, border and citizenship regimes have become mechanisms through which marginalized populations are produced and controlled. One outcome of this in Canada is that more and more people -- mostly people of colour from the Global South -- are forced into situations of lacking documentation (also described as 'being without status'), which makes them highly vulnerable to various forms of state sanction, including deportation. Part of what is so fraught about living without status is the ever-present risk that you'll just be going about your life, working at your job, existing as part of your community, and something will happen that will bring you to the attention of the Canada Border Services Agency (or CBSA), who may then detain you, turn your life upside down, terrorize your family, and send you out of the country. This can happen, for instance, when accessing social and health services of various kinds, and many undocumented people avoid such services as a consequence (even though they generally pay taxes that contribute to making such services possible). Or, of direct relevance to today's show, it can happen if you're taking public transit home from work, you get racially profiled by transit police, and they turn you over the CBSA.”
  - “That happened late last year to Vancouver hotel worker Lucia Vega Jimenez. She later committed suicide in an immigration detention centre. Organizers with the No One Is Illegal group in that city decided they needed to know more about what led to this tragedy, and their digging uncovered an extensive record of collaboration between the Vancouver area transit police and the CBSA that was effectively turning the public transit system into a border checkpoint. This work eventually brought together folks from No One Is Illegal with other migrant justice organizers in a campaign called Transportation not Deportation. In the same spirit as those campaigns in cities around the continent which have carved out places of sanctuary,



---

solidarity, and safety for undocumented people in various kinds of urgently needed services, Transportation not Deportation's focus is a push to make public transit a place of safety for people regardless of migration status. And, recently, they won an important victory when the transit police formally cancelled the Memorandum of Understanding they had signed with CBSA (the existence of which they had earlier denied). It is unclear how far this victory goes, and more organizing is definitely required, but it is an important win on the path to creating and expanding spaces of safety and, ultimately, real justice for migrants on Turtle Island. Tseghay and Wexel spoke with me about the origins of the campaign, what they did to build its momentum, the recent victory, and the struggles still ahead."

