



# Public Security Committee Agenda

Click link to access the meeting:

<https://www.zoomgov.com/j/1612827529>






Zoom Meeting ID

## Ways to Join



**Computer:** Click the link above. You will be prompted to run the Zoom browser or Zoom application. Once signed on to the meeting, you will have the option to join using your computer audio system or phone.

### Webinar Features:

 Raise Hand	▶	Use the <b>raise hand</b> feature every time you wish to make a public comment.
	▶	Participants can enable <b>closed captioning</b> by clicking the CC icon. You may also view the full transcript and change the font size by clicking 'subtitle settings'. These features are not available via phone.
	▶	This symbol shows you are <b>muted</b> , click this icon to unmute your microphone.
	▶	This symbol shows you are currently <b>unmuted</b> , click this button to mute your microphone.
	▶	The chat feature should be used by panelists and attendees solely for "housekeeping" matters as comments made through this feature will not be retained as part of the meeting record. See the <b>Live Verbal Public Comment</b> for instructions on how to make a public comment.



**Smartphone or Tablet:** Download the Zoom app and join the meeting by clicking the link or using the webinar ID (found in the link).



### Phone:

1. If you are joining the meeting audio by phone and viewing the meeting on a device, dial the number provided in the 'join audio' phone call tab of the initial pop-up, and enter the Meeting ID (found in the link).
2. If you are joining by phone only, dial: **+1-669-254-5252** and type the meeting ID found in the link, press #. You will have access to the meeting audio, **but will NOT be able to view the PowerPoint presentations.**



### Live Verbal Public Comments:

Use the 'Raise Hand' icon every time you wish to make a public comment on an item. Raise your hand once the agenda item you wish to comment on has been called. In person public comments will be taken first, virtual attendees will be taken in the order in which they raise their hand. Requests to speak will not be taken after the public comment period ends, unless under the Chair's discretion. General Public Comment, at the beginning of the Board of Directors meeting only, will be limited to five speakers. Additional speakers with general public comments will be heard at the end of the meeting. Two-minutes of time is allotted per speaker, unless otherwise directed by the Chair.

### Public Comments Made Via Zoom

1. Click the link found at the top of this instruction page
2. Click the raise hand icon located in the bottom center of the platform
3. The Clerk will announce your name when it is your turn to speak
4. Unmute yourself to speak

### Public Comments Made by Phone Only

1. Dial **+1-669-254-5252**
2. Type in the zoom meeting ID found in the link and press #
3. Dial \*9 to raise your hand via phone
4. The Clerk will call out the last 4 digits of your phone number to announce you are next to speak
5. Dial \*6 to unmute yourself



**Written Public Comments (before the meeting):** Written public comments will be recorded in the public record and will be provided to MTS Board Members in advance of the meeting. Comments must be emailed or mailed to the Clerk of the Committee\* by 4:00pm the day prior to the meeting.

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**Translation Services:** Requests for translation services can be made by contacting the Clerk of the Committee\* at least four working days in advance of the meeting.

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**In-Person Participation:** In-person public comments will be heard first. Following in-person public comments, virtual attendees will be heard in the order in which they raise their hand via the Zoom platform. Speaking time will be limited to two minutes per person, unless specified by the Chairperson. Requests to speak will not be taken after the public comment period ends, unless under the Chair's discretion.

**Instructions for providing in-person public comments:**

1. Fill out a speaker slip located at the entrance of the Board Room;
2. Submit speaker slip to MTS staff seated at the entrance of the Board Room;
3. When your name is announced, please approach the podium located on the right side of the dais to make your public comments.

Members of the public are permitted to make general public comment at the beginning of the agenda or specific comments referencing items on the agenda during the public comment period. General Public Comment, at the beginning of the Board of Directors meeting only, will be limited to five speakers. Additional speakers with general public comments will be heard at the end of the meeting.

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**Assistive Listening Devices (ALDs):** ALDs are available from the Clerk of the Committee\* prior to the meeting and are to be returned at the end of the meeting.

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**Reasonable Accommodations:** As required by the Americans with Disabilities Act (ADA), requests for agenda information in an alternative format or to request reasonable accommodations to facilitate meeting participation, please contact the Clerk of the Committee\* at least two working days prior to the meeting.

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**\*Contact Information:** Contact the Clerk of the Committee via email at [jasiel.estolano@sdmts.com](mailto:jasiel.estolano@sdmts.com), phone at (619) 595-4966 or by mail at 1255 Imperial Ave. Suite 1000, San Diego CA 92101.



# Agenda del Comité de Seguridad Pública

Haga clic en el enlace para acceder a la reunión:

<https://www.zoomgov.com/j/1612827529>

ID de la reunión  
en Zoom

## Formas de Participar



**Computadora:** Haga clic en el enlace más arriba. Recibirá instrucciones para operar el navegador de Zoom o la aplicación de Zoom. Una vez que haya iniciado sesión en la reunión, tendrá la opción de participar usando el sistema de audio de su computadora o teléfono.

### Funciones del Seminario En Línea:

 Levantar la mano	▶	Use la herramienta de <b>levantar la mano</b> cada vez que desee hacer un comentario público.
	▶	Los participantes pueden habilitar <b>el subtitulado</b> haciendo clic en el ícono CC. También puede ver la transcripción completa y cambiar el tamaño de letra haciendo clic en “configuración de subtítulos”. Estas herramientas no están disponibles por teléfono.
	▶	Este símbolo indica que usted se encuentra en <b>silencio</b> , haga clic en este ícono para quitar el silenciador de su micrófono.
	▶	Este símbolo indica que su micrófono se encuentra <b>encendido</b> . Haga clic en este símbolo para silenciar su micrófono.
	▶	La herramienta de chat deben usarla los panelistas y asistentes únicamente para asuntos “pertinentes a la reunión”, ya que comentarios realizados a través de esta herramienta no se conservarán como parte del registro de la reunión. Consulte el <b>Comentario público verbal</b> en vivo para obtener instrucciones sobre cómo hacer un comentario público.



**Teléfono Inteligente o Tableta:** Descargue la aplicación de Zoom y participe en la reunión haciendo clic en el enlace o usando el ID del seminario web (que se encuentra en el enlace).



### Teléfono:

1. Si está participando en la reunión mediante audio de su teléfono y viendo la reunión en un dispositivo, marque el número indicado en la pestaña de llamada telefónica “unirse por audio” en la ventana emergente inicial e ingrese el ID de la reunión (que se encuentra en el enlace).
2. Si está participando solo por teléfono, marque: **+1-669-254-5252** e ingrese el ID de la reunión que se encuentra en el enlace, pulse #. Tendrá acceso al audio de la reunión, **pero NO podrá ver las presentaciones en PowerPoint.**



**Comentarios Públicos Verbales en Vivo:** Use la herramienta “levantar la mano” cada vez que desee hacer un comentario público sobre alguno de los artículos. Levante la mano una vez que el artículo de la agenda sobre el que desea comentar haya sido convocado. Los comentarios públicos en persona se escucharán primero, se escuchará a los asistentes virtuales en el orden en el que levanten la mano. No se aceptarán solicitudes para hablar después de que termine el periodo para hacer comentarios públicos, a menos de que el presidente determine de otra forma a su discreción. Comentarios públicos generales, únicamente al inicio de la reunión de la Junta de Directores, se limitarán a cinco personas que deseen hablar. Las personas adicionales que deseen aportar comentarios públicos generales podrán hacerlo al final de la reunión. Se otorga dos minutos de tiempo por persona que desee hablar, a menos de que el presidente instruya de otra forma. *(Consulte la página 2 para obtener instrucciones sobre cómo hacer un comentario público.)*

## Comentarios Públicos a Través de Zoom

1. Haga clic en el enlace que se encuentra en la parte superior de esta página de instrucciones
2. Haga clic en el ícono de levantar la mano en el centro inferior de la plataforma
3. El secretario anunciará su nombre cuando sea su turno de hablar
4. Desactive el silenciador para que pueda hablar

## Comentarios Públicos Realizados Únicamente por Teléfono

1. Marque el **+1-669-254-5252**
2. Ingrese el ID de la reunión en Zoom que se encuentra en el enlace y pulse #
3. Marque \*9 para levantar la mano por teléfono
4. El secretario indicará los últimos 4 dígitos de su número de teléfono para anunciar que usted será el siguiente en hablar
5. Marque \*6 para desactivar el silenciador



**Comentarios Públicos por Escrito (Antes de la Reunión):** Los comentarios públicos por escrito se registrarán en el registro público y se entregarán a los miembros de la Junta de MTS antes de la reunión. Los comentarios deben enviarse por correo electrónico o postal al secretario del Comité\* antes de las 4:00 p.m. el día anterior a la reunión.



**Servicios de Traducción:** Pueden solicitarse servicios de traducción comunicándose con el secretario del Comité\* por lo menos cuatro días hábiles antes de la reunión.



**Participación en Persona:** Los comentarios públicos en persona se escucharán primero. Después de los comentarios públicos en persona, se escuchará a los asistentes virtuales en el orden en el que levanten la mano a través de la plataforma de Zoom. El tiempo para hablar se limitará a dos minutos por persona, a menos de que el presidente especifique de otra forma. No se recibirán solicitudes para hablar después de que termine el periodo para hacer comentarios públicos, a menos de que el presidente determine de otra forma a su discreción.

### Instrucciones para brindar comentarios públicos en persona:

1. Llene la boleta para personas que desean hablar que se encuentran en la entrada de la Sala de la Junta.
2. Entregue la boleta para personas que desean hablar al personal de MTS que se encuentra sentado en la entrada de la Sala de la Junta.
3. Cuando anuncien su nombre, por favor, acérquese al podio ubicado en el lado derecho de la tarima para hacer sus comentarios públicos.

Los miembros del público pueden hacer comentarios públicos generales al inicio de la agenda o comentarios específicos que hagan referencia a los puntos de la agenda durante el periodo de comentarios públicos. Los comentarios públicos generales únicamente al inicio de la reunión de la Junta de Directores, se limitarán a cinco personas que deseen hablar. Las personas adicionales que deseen aportar comentarios públicos generales podrán hacerlo al final de la reunión.



**Dispositivos de Asistencia Auditiva (ALD, por sus siglas en inglés):** Los ALD están disponibles con el secretario del Comité\* antes de la reunión y estos deberán ser devueltos al final de la reunión.



**Facilidades Razonables:** Según lo requerido por la Ley de Estadounidenses con Discapacidades (ADA, por sus siglas en inglés), para presentar solicitudes de información de la agenda en un formato alternativo o solicitar facilidades razonables para facilitar su participación en la reunión, por favor, comuníquese con el secretario del Comité\* por lo menos dos días hábiles antes de la reunión.



**\*Información de Contacto:** Comuníquese con el secretario del Comité por correo electrónico en [jasiel.estolano@sdmts.com](mailto:jasiel.estolano@sdmts.com), por teléfono al (619) 595-4966 o por correo postal en **1255 Imperial Ave. Suite 1000, San Diego CA 92101.**



**Metropolitan  
Transit  
System**

# Public Security Committee Agenda

September 20, 2024 at 1:30 pm

**In-Person Participation:** James R. Mills Building, 1255 Imperial Avenue, 10th Floor Board Room, San Diego CA 92101

**Teleconference Participation:** (669) 444-9171; Webinar ID: https: 987 6280 0751,

<https://www.zoomgov.com/j/1612827529>

NO.	ITEM SUBJECT AND DESCRIPTION	ACTION
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1. **Roll Call**

2. **Public Comments**

3. **Approval of Minutes**

Action would approve the June 7, 2024 Public Security Committee Meeting Minutes.

Approve

## DISCUSSION AND REPORT ITEMS

4. **Transit Agency Fare Enforcement Model Review (Karen Landers and Dan Brislin)**

Action would receive a report concerning California Transit Agency Fare Enforcement Models, provide direction to staff on additional research to be conducted, and/or provide a recommendation to the MTS Board of Directors regarding a potential change in fare enforcement models.

Possible Action

5. **Fare Enforcement Diversion Program Modifications (Karen Landers)**

Action would have the PSC forward a recommendation to the Board of Directors to remove the option to purchase a one-way fare on-the-spot from the Fare Enforcement Diversion Program and make the revised program permanent.

Possible Action

## OTHER ITEMS

6. **Committee Member Communications and Other Business**

7. **Next Meeting Date: December 20, 2024 at 1:30 pm**

8. **Adjournment**

1255 Imperial Avenue, Suite 1000, San Diego, CA 92101-7490 • (619) 231-1466 • [sdmts.com](http://sdmts.com)

San Diego Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc. and San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations). MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, and the County of San Diego. MTS is also the For-Hire Vehicle administrator for nine cities.



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**From:** Alex Wong <alex@ridesd.org>  
**Sent:** Wednesday, September 18, 2024 10:22 AM  
**To:** Karen Wisniewski; Jasiel Estolano  
**Subject:** 9/20 Public Security Committee Non-Agenda Comment

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Clerk of the Committee,

Could you confirm receipt of the below comment? Thank you!

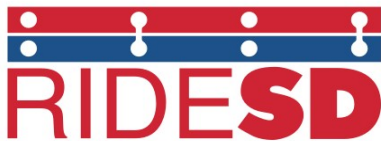
Dear MTS Public Security Committee:

To maximize passenger security, it is crucial to increase Trolley frequency. Increased Trolley frequency helps passengers feel safer in addition to shortening travel times and alleviating overcrowding. Consider how in 2023, 89% of total Crimes happened on the Trolley. Moreover, [84% of Trolley Part I Crimes](#) and 60% of Trolley Part II Crimes happened at stations rather than on board Trolleys. That's why I applaud MTS' decision to increase late night Trolley frequencies to 15 minutes, systemwide. MTS should also increase Mid-Coast frequencies in June 2025. I am concerned that MTS may delay 7.5 minute frequencies on the Mid-Coast in order to balance deficits. Increasing Mid-Coast frequencies to 7.5 minutes is an excellent investment. It only costs [\\$3.7 million annually](#) to do so, and the Blue Line has lower per-passenger subsidies than nearly every MTS bus route. And with Blue Line ridership growing by [11.4%](#) in the past fiscal year alone, 7.5 minute Mid-Coast frequencies cannot come sooner.

Sincerely,

--

Alex Wong  
Data Researcher  
[www.RideSD.org](http://www.RideSD.org)



*"Frequency is Freedom, but [every] 15 minutes isn't frequency" - Alon Levy*

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**From:** Guthre Leonard <guthre.leonard@gmail.com>  
**Sent:** Wednesday, September 18, 2024 1:54 PM  
**To:** Karen Wisniewski; Jasiel Estolano  
**Subject:** 9/20 Public Security Committee Non-Agenda Comment

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear MTS Public Security Committee:

To maximize passenger security, it is crucial to increase Trolley frequency. Increased Trolley frequency helps passengers feel safer in addition to shortening travel times and alleviating overcrowding. Consider how in 2023, 89% of total Crimes happened on the Trolley. Moreover, [84% of Trolley Part I Crimes](#) and 60% of Trolley Part II Crimes happened at stations rather than on board Trolleys. That's why I applaud MTS' decision to increase late night Trolley frequencies to 15 minutes, systemwide. MTS should also increase Mid-Coast frequencies in June 2025. I am concerned that MTS may delay 7.5 minute frequencies on the Mid-Coast in order to balance deficits. Increasing Mid-Coast frequencies to 7.5 minutes is an excellent investment. It only costs [\\$3.7 million annually](#) to do so, and the Blue Line has lower per-passenger subsidies than nearly every MTS bus route. And with Blue Line ridership growing by [11.4%](#) in the past fiscal year alone, 7.5 minute Mid-Coast frequencies cannot come sooner.

Sincerely,  
Guthre Leonard

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**From:** Sam Borinsky <samborinsky@gmail.com>  
**Sent:** Wednesday, September 18, 2024 3:21 PM  
**To:** Jasiel Estolano  
**Subject:** 9/20 Public Security Committee Non-Agenda Comment

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear MTS Public Security Committee:

To maximize passenger security, it is crucial to increase Trolley frequency. Increased Trolley frequency helps passengers feel safer in addition to shortening travel times and alleviating overcrowding. Consider how in 2023, 89% of total Crimes happened on the Trolley. Moreover, 84% of Trolley Part I Crimes and 60% of Trolley Part II Crimes happened at stations rather than on board Trolleys. That's why I applaud MTS' decision to increase late night Trolley frequencies to 15 minutes, systemwide. MTS should also increase Mid-Coast frequencies in June 2025. I am concerned that MTS may delay 7.5 minute frequencies on the Mid-Coast in order to balance deficits. Increasing Mid-Coast frequencies to 7.5 minutes is an excellent investment. It only costs \$3.7 million annually to do so, and the Blue Line has lower per-passenger subsidies than nearly every MTS bus route. And with Blue Line ridership growing by 11.4% in the past fiscal year alone, 7.5 minute Mid-Coast frequencies cannot come sooner.

Sincerely,

Sam Borinsky



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**From:** Alex Hernandez <alehernandez94@gmail.com>  
**Sent:** Thursday, September 19, 2024 10:31 AM  
**To:** Jasiel Estolano  
**Subject:** 9/20 Public Security Committee Non-Agenda Comment

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear MTS Public Security Committee,

Increased trolley frequency is crucial to rider safety. As a young woman, I don't feel safe waiting at most trolley stops for a long period due to the frequent theft and harassment that I observe. Increasing the trolley frequency will also shorten travel times, encouraging more riders and reducing crowd sizes, both on stations and on trolleys.

I am an attorney who services low-income clients, the majority of which rely on the trolley system as their primary mode of transportation around San Diego. They frequently experience harassment, physical and sexual assault, and theft while waiting at trolley stations, as is reflected [by MTS's own data](#). Crime is more prevalent at night, so I am in support of MTS' decision to increase late night Trolley frequencies to 15 minutes, systemwide.

I ask that MTS increase mid-coast trolley frequencies as soon as possible. Blue Line ridership has grown by over 11% during the past fiscal year, evidencing the need for more frequent rides. I work near the Washington Street Station. It is difficult for me to pop over to Old Town or Little Italy during my one hour lunch. Taking the trolley adds about 30 minutes to my lunch, so it's not an option most days. It needs to be faster to commute using the trolley so that more people can take advantage of this asset.

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Best,  
Alex  
(she/her)

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**From:** Lawrence Vulis <lawrence@vulis.net>  
**Sent:** Thursday, September 19, 2024 11:35 AM  
**To:** Jasiel Estolano  
**Subject:** 9/20 Public Security Committee Non-Agenda Comment

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear MTS Public Security Committee:

To maximize passenger security, it is crucial to increase Trolley frequency. Increased Trolley frequency helps passengers feel safer in addition to shortening travel times and alleviating overcrowding. Consider how in 2023, 89% of total Crimes happened on the Trolley. Moreover, [84% of Trolley Part I Crimes](#) and 60% of Trolley Part II Crimes happened at stations rather than on board Trolleys. That's why I applaud MTS' decision to increase late night Trolley frequencies to 15 minutes, systemwide. MTS should also increase Mid-Coast frequencies in June 2025. I am concerned that MTS may delay 7.5 minute frequencies on the Mid-Coast in order to balance deficits. Increasing Mid-Coast frequencies to 7.5 minutes is an excellent investment. It only costs [\\$3.7 million annually](#) to do so, and the Blue Line has lower per-passenger subsidies than nearly every MTS bus route. And with Blue Line ridership growing by [11.4%](#) in the past fiscal year alone, 7.5 minute Mid-Coast frequencies cannot come sooner.

Sincerely,

Lawrence Vulis

MINUTES  
MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM  
PUBLIC SECURITY COMMITTEE (PSC)

June 7, 2024

[Clerk's note: Except where noted, public, staff and Committee Member comments are paraphrased. The full comment can be heard by reviewing the recording at the [MTS website](#).]

**1. Roll Call**

Chair Montgomery Steppe called the Public Security Committee meeting to order at 1:33 p.m. A roll call sheet listing Public Security Committee member attendance is attached.

**2. Public Comments**

There were no Public Comments.

**3. Approval of Minutes**

Committee Member Dillard moved to approve the minutes of the March 29, 2024, MTS Public Security Committee meeting. Committee Member Rodriguez seconded the motion, and the vote was 5 to 0 in favor with Committee Member Donovan absent.

**DISCUSSION ITEMS**

**4. Prevention and Deterrence of Lewd Acts on Public Transit (Karen Landers and Dan Brislin)**

Karen Landers, MTS General Counsel, and Daniel Brislin, MTS Deputy Director of Transit Security and Passenger Safety, presented on Prevention and Deterrence of Lewd Acts on Public Transit. They outlined: the definition of lewd acts, statistics on MTS reports under lewd acts from 2023 to April 2024, the barriers MTS faces with prosecution and accountability, how MTS as an agency acting on behalf of passengers would benefit the prosecution process if they could be positioned as a victim, and a pilot project with the San Diego City Attorney's Office.

**Public Comment**

There were no Public Comments.

**Committee Comment**

Committee Member Hall expressed his agreement with the topics presented and the pilot program underway. Committee Member Hall recommended opening this discussion as a statewide issue and involving politicians for their support to benefit all transit systems. He shared that in Santee, the sheriff's department uses a "No Trespass Agreement" form. Committee Member Hall recommended that MTS create a similar form to distribute to patrons committing these crimes as a preventive measure. Ms. Landers agreed and said that MTS has an exclusion policy in process, though not yet Board adopted, and stated the policy outlined the procedures, timelines, and circumstances adopted before revoking someone's riding privileges and emphasized the importance of having sufficient evidence to support conduct issues. She added that the review process might include additional steps for prosecution if necessary and if a case was deemed prosecutable, MTS could issue an exclusion order to revoke the individual's riding privileges. Committee Member Hall proposed using the "no trespass agreement" form as a backup for these cases, noting that in Santee, the form is valid for three years and recommended that MTS establish a time frame for the form's eligibility. Committee Member Hall

inquired whether Transit Security was verifying if individuals committing these offenses also had valid fares, and if not, suggested that they should be held accountable for this as well.

Committee Member Hall urged MTS to take proactive measures to hold patrons who abuse the transit system accountable for their actions and emphasized that certain individuals should be banned from using transit services and highlighted the committee's responsibility to respond to public demands for increased security to ensure safety is upheld.

Chair Montgomery Steppe thanked Committee Member Hall for his participation and made mention that MTS has allocated significant funds to address security concerns. Chair Montgomery Steppe asked how the video recording system would be utilized in the prosecution process for these cases, pointing out that MTS would need to act as the victim to present the evidence. Chair Montgomery Steppe inquired whether the discussed process had been tested in court. Ms. Landers reported that the San Diego City Attorney has agreed to support MTS with this plan. She had initially reached out to the City Attorney to inquire if a bill was necessary for MTS to be considered a victim on behalf of a patron and, after further discussions, the City Attorney's criminal team determined that a bill was not necessary for MTS to take action. Ms. Landers highlighted the need to change the mindset around pressing charges, noting that relying solely on a victim to press charges is not always practical and emphasized that Transit Enforcement often cannot pursue cases if the victim is unwilling to press charges. Ms. Landers stressed the importance of educating witnesses about MTS's commitment to addressing these issues and preventing recurrence. If necessary, with the victim's contact information and statement, MTS is hoping the agency can still prosecute a case as the victim.

Chair Montgomery Steppe acknowledged that the process can be particularly intimidating for those affected by such incidents. Committee Member Rodriguez asked about the differences between a lewd act, indecent exposure, and sexual battery. Mr. Brislin explained that a 314 in the California Penal Code refers to indecent exposure, which involves someone exposing themselves in public and potentially causing offense to others. He further clarified that a lewd act typically involves masturbation or any form of self-touching. Mr. Brislin also mentioned that there are different sections in the Penal Code associated with these acts, which pertains to sexual battery and involves physically touching another person in a self-gratification act, with a person being the victim.

Committee Member Gonzalez expressed curiosity about the process and wanted to understand how the data was collected and compiled. Mr. Brislin explained that every incident reported to MTS is documented in a narrative form and after the report is created, the Crime Analyst then tracks this data throughout the year. Sharon Cooney, Chief Executive Officer, added that this process only applied to cases that are reported, and there might be incidents that go unreported or are not witnessed. Committee Member Gonzalez raised a question regarding the possibility of knowing the gender of the victims involved in the incidents. Mr. Brislin responded that the gender of the suspects is known for each incident and stated that presenting the gender data to the committee could be easily done. Committee Member Gonzalez expressed the importance of taking a step back and focusing on the bigger picture, which is to expand transit ridership. Committee Member Gonzalez emphasized that the committee members have advocated for the system's expansion and affordability for riders, however, Committee Member Gonzalez stressed the need to prioritize safety, stating that incidents like the ones discussed were completely inexcusable and should not occur in a transit system. Committee Member Gonzalez expressed wholehearted support for ensuring a safer experience for residents and inquired how the program would be implemented across the various jurisdictions outside the City of San Diego. Ms. Landers informed that Mr. Brislin has been in contact with other jurisdictions and expressed

the hope of establishing a consistent process across the entire system. Mr. Brislin added that he plans to collaborate with the City Attorney responsible for misdemeanors and felony cases and emphasized the importance of interpreting the Penal Code and jury instructions to reach consensus throughout the county and with this, MTS's main goal would be to prosecute these cases in a similar manner. Mr. Brislin explained that in law enforcement, there are situations where a victim may prefer not to be involved in the process and with the proposed changes within MTS, the agency would be able to gather evidence, build a case, and submit to the City Attorney or the District Attorney for evaluation and potential prosecution. Committee Member Gonzalez asked about the scenario where a patron does not come forward with a complaint, but the incident is captured on the surveillance system. Mr. Brislin expressed optimism that with the approved measures, Transit Enforcement would be able to prosecute such incidents based on MTS surveillance footage, even if no victim or witnesses came forward. Committee Member Gonzalez expressed gratitude for the presentation and reiterated the importance of ensuring the safety of public transit.

Ms. Cooney discussed MTS's philosophy regarding incident reporting. She mentioned that if no one reports an incident but it is discovered through video footage or other evidence, it will be flagged and reported as a crime, even if the victims do not wish to testify. Committee Member Gonzalez asked if this policy would be implemented going forward. Ms. Cooney confirmed that this process has been in place for the past three years. Committee Member Gonzalez inquired if the incidents mentioned were included in the data presented during the meeting. Ms. Cooney responded that while the footage was under review for other reasons and a crime was identified during the review process, it would be reported. Committee Member Gonzalez thanked staff for the presentation and encouraged further discussion.

Committee Member Dillard expressed gratitude for the presentation and inquired about the availability of data on the mental state of the suspects involved in the crimes discussed and if the mental state of the suspects could potentially impact the prosecution process. Ms. Landers responded stating that the mental health status of the suspects in the data was unknown. Ms. Landers explained that speculating on such issues would be inappropriate, and it would ultimately depend on the evaluation of the incidents by the prosecutors during the pilot project and based on that evaluation, MTS would determine whether to proceed with the case, while also considering the importance of not tolerating unlawful conduct and learning from how to handle criminal prosecutions appropriately. Ms. Landers mentioned that currently, reported cases from MTS remain in the system without any further action being taken. Mr. Brislin agreed with Ms. Landers, stating that assuming the suspects have mental health issues would be speculative. He pointed out that it is unknown whether the suspects were under the influence, carried mental health issues, or were sexual predators during the crimes. Mr. Brislin emphasized that differentiating between these factors would be challenging, but the impact of the crimes would remain the same. Committee Member Dillard expressed concern that if the suspects tended to be unsheltered individuals, it would create difficulties in identifying the victims of these incidents and how they would be handled. Mr. Brislin acknowledged the challenge and explained that it is the responsibility of the investigators to gather identifiable information on the suspect, send it to the District Attorney or the City Attorney for review, and ultimately build a case or issue an arrest warrant. Mr. Brislin stated that the Data Analyst would assist in gathering information to determine if the suspect is a regular rider in the system. Committee Member Dillard thanked MTS staff for their responses.

Chair Montgomery Steppe asked if there was a specific timeframe or set date to provide information on the testing and training of the pilot program and whether it would effectively

address these types of crimes. Ms. Landers expressed her desire to begin testing the pilot program as soon as possible and potentially coordinate the training dates with the City Attorney's office in the next month. She also mentioned that the investigator position should be filled by next month. Mr. Brislin informed the committee members that the investigator position has been posted, and while they review candidates, himself and Mr. Curran are evaluating reported lewd acts and preparing them for presentation once confirmation is received that the cases can proceed with prosecution. Committee Member Dillard requested that MTS staff provide updates on this topic in the next meetings and expressed appreciation to MTS staff.

### **Action Taken**

Informational item only. No action taken.

### **5. Assaults on Employees (Tim Curran)**

Tim Curran, MTS Director of Transit Security and Passenger Safety, presented on Assaults on Employees with support from Brian Riley, Chief Operating Officer (Rail) and Jared Garcia, Manager of Safety (Bus). They presented on: assaults on CCI's (Code Compliance Inspectors), assaults on TSO's (Contract Security Officers), assaults on Trolley Operators, assaults on Bus Operators, assaults on other MTS employees, MTS Rail division training, MTS Rail active shooter and emergency SOP's (Standard Operating Procedure) and MTS Bus risk reduction program.

### **Committee Comment**

Committee Member Gonzalez referred to the previous agenda item and Committee Member Hall's comments and asked if there were other tools or options available in case there was no ability to prosecute, where MTS could voluntarily ban patrons from using MTS services in the future due to their criminal activities. Mr. Curran said MTS has previously prepared ban letters for certain individuals, aside from the possible criminal prosecution options available by the City Attorney or the District Attorney, the ban letters would be used for a frequent offender. Mr. Curran said these letters would be sent after all incidents and reports were documented and reviewed by the MTS Legal Counsel and after it is approved, the individual will receive this letter and will be banned for 60 days, 90 days, or up to a year from using the transit system. Committee Member Gonzalez asked if that option was only available after they were prosecuted and found guilty in court or if it was an available option regardless of prosecution. Mr. Curran added that it has been done numerous times even if there was prosecution or not, specifically with individuals that have violated transit rules many times and carry numerous citations and incidents that the agency has submitted to the courts. Ms. Landers added that MTS Legal staff has worked hand in hand with the Security Department to come up with a process like this even though the individual does not have a constitutional right to ride transit, but it is a public benefit. Ms. Landers noted that there is a heightened standard for people to use public transportation and if the agency were to arbitrarily ban someone from using it, that action could be subject to challenge and also does not represent MTS's mission statement. Ms. Landers added that before banning an individual from public transit, MTS would gather enough evidence to prove they were unduly interfering with transit operations and its safety and give the individual an opportunity to appeal; if the individual did not agree with the agency's decision, they could dispute the decision in court.

Chair Montgomery Steppe thanked MTS staff for the explanation.

Committee Member Hall asked if the quantity of incidents an individual is linked to was considered to take action or if there was a procedure being followed. Ms. Landers offered to

prepare a presentation on the Exclusion Policy and highlighted the extensive time and research invested to ensure the policy was practical and legally sound. Ms. Landers added that the policy was developed using documented cases that provide sufficient evidence and matched the severity of the incidents to support the bans and added that the main goal of the policy is to correct individuals conduct through specific time frame bans, making them aware of the repercussions of their actions to then regain the benefit to ride transit and for this to happen, individuals would need to prove that they will not repeat their offenses. Committee Member Hall asked if this exclusion policy was ever used for fare evasion. Mr. Curran responded no.

Chair Montgomery Steppe added that it would be challenging to utilize these options for fare evasion since there has never been enough delineation between these types of crimes relating to fare evasion. Chair Montgomery Steppe stated that it is necessary to enforce safety in order to protect riders when crimes like these occur as opposed to fare evasion which is considered more like receiving a speeding ticket while driving, hence receiving a civil penalty. Chair Montgomery Steppe asked Brian Riley, Chief Operating Officer (Rail), if there were any other solutions he heard were being utilized on a national level during his training visits to other states to mitigate the rise of these crimes in public transportation. Mr. Riley shared that during his visit to Cleveland, he attended a presentation covering assaults on employees prepared by the FTA (Federal Transit Administration) and shared that most of the transit systems are following de-escalation guidelines and offering de-escalation training. Mr. Riley added that for these types of crimes the situation becomes a challenge to enforce prosecution when there is no victim or someone who is willing to go to court and press charges; and that enables the suspect to continue. Mr. Riley says he thinks MTS as an agency is aligned with the measures and de-escalation focus like the addition of the risk reduction program for employee's other transit agencies are following throughout the United States regarding assaults on public transit employees. Jared Garcia, Manager of Safety (Bus), added that on the bus side of the agency, they are evaluating the vehicles and making sure they have the driver barriers as a protection for employees. Chair Montgomery Steppe thanked MTS staff for the presentation and for their efforts and acknowledged that unfortunately the number of assaults on employees was high and might increase compared to last year.

Committee Member Dillard asked if during the risk reduction program training offered to the bus employees, if there was any feedback gathered from the employees and if there was open communication available on how they feel the training prepared them since these incidents are very unpredictable. Mr. Garcia shared that every year bus operators have an eight-hour training focused on customer service and de-escalation training where breakout sessions are offered which include asking bus operators about their frustrations. Mr. Garcia responded that the training was updated yearly with different concepts and scenarios and mentioned that this year's focus was to update the training and include recorded interviews with veteran bus operators who share their experiences, how they interact with passengers and how they cope with difficult situations, making the training very powerful and easier to understand and promote empathy on the various types of communities bus operators serve and encounter on a daily basis.

Committee Member Dillard thanked Mr. Garcia for the updates on the training and agreed that feedback is valuable especially for employees that are on the front lines. Mr. Riley added that in the rail division, even though there are not many assault incidents within their employees, they acknowledge the importance of mental health and if an incident does come up, they make sure to have open communication with the employees and offer resources available to them.

Committee Member Dillard thanked Mr. Riley. Chair Montgomery Steppe thanked staff for the presentation.

### **Action Taken**

Informational item only. No action taken.

#### **6. Single Text Security Phone Number (Tim Curran and Mark Olson)**

Tim Curran, MTS Director of Transit Security and Passenger Safety, and Mark Olson, Director of Marketing and Communications, presented on Single Text Security Phone Number. They presented on: challenges MTS and patrons have faced with the Security Hotline, evaluation and selection of the single text security phone number, awareness campaign, tactics used to promote the security hotline, advertising, rider comments, next steps and 2024 Security Initiatives.

### **Committee Comment**

Chair Montgomery Steppe thanked staff for the presentation and asked if the calls were received by a live person. Mr. Curran responded yes. Chair Montgomery Steppe asked if there was a way to monitor the type of calls received. Mr. Curran responded they received various type of calls covering a multitude of reported incidents.

Committee Member Dillard thanked staff for the presentation and asked how the missed text messages or calls were handled. Mr. Curran responded that with the old system that was previously used as the security hotline, the calls or text were received through a smartphone. While the Dispatchers were in their stations, they usually look at their computer screen with their headset on and answer incoming calls; during their tasks, sometimes the phone would be on vibrate and the calls or texts couldn't be heard due to its vibration status or due to dispatchers monitoring their screen and this would create a missed call. Mr. Curran added that most of their calls were answered in less than a minute but mentioned that on rare occasions they were delayed. Member Dillard asked if there was any data showing the time frames where large number of calls or texts would be received. Mr. Curran said he did not have the information available but knew that the majority of calls and text messages are received during busy commuter hours, generally 6am to 9am and from 5pm to 8pm, and added that he can provide those numbers in the future. Member Dillard shared she had a family member living in Seattle that she would visit often and during her visits she would use the Link light rail for her commute and noticed that during Seattle rush hours, the sheriff's department would step on the trains, not really interact with the passengers but make their presence known to patrons. Member Dillard asked Mr. Curran how he felt about doing something similar to minimize passengers worrying about safety. Mr. Curran provided an overview of the procedures Code Compliance Inspectors (CCI) and Transit Security Officers (TSO) follow when situated in stations and how their presence is being tracked by the department by step-ons and step-offs. He explained that while a CCI or TSO is in a station and a train pulls in, part of their duties is to step on to that train, unless dealing with an incident, and make their presence known. Mr. Curran added that the same protocol was being followed by the Sheriff's department in North County. Ms. Cooney shared that previously MTS Transit Enforcement had support by a Joint Agency Task Force (JATF) supported by a federal grant that would pay the participating jurisdictions and offer support by riding the system and showing their presence on board Trolleys, buses and in stations on a regular basis and how bringing this support back has been a topic of conversation. Member Dillard asked if there was data available that showed if the safety issues minimized during the support. Ms. Cooney and Mr. Curran both agreed that there was a faster police response during incidents, more coverage during the busiest times of the day while the task force was in place and additionally helped law enforcement understand what Transit Enforcement dealt with on a daily basis while continuing to keep people safe and comfortable



while riding transit. Member Dillard recommended bringing that support back as additional safety and stated it would make a big difference by showing their presence to keep the calls to a minimum and maintain order.

Chair Montgomery Steppe thanked staff for the presentation and asked the Security & Passenger Safety Community Advisory Group (CAG) to contribute feedback on this topic.

### **Action Taken**

Informational item only. No action taken.

## **7. Fare Evasion Revenue Impact Analysis (Karen Landers)**

Karen Landers, MTS General Counsel, presented on fare evasion impact analysis with support from Israel Maldonado, MTS Director of Fare Technology, and Mike Thompson, MTS Deputy Chief Financial Officer. She presented on: fare evasion diversion program pilot, fare evasion rates and how to determine them, fare evasion rates- PRONTO data, concerning trends, revenue loss estimates, individual PRONTO card analysis and what the data reads, other research/outreach, diversion program modifications under consideration, and next steps.

### **Committee Comment**

Chair Montgomery Steppe thanked staff for the presentation and acknowledged it contained many valuable points, one of them being the shift in the revenue collection system from Compass to PRONTO. Chair Montgomery Steppe shared that she is a choice rider, very familiar with both the Compass and the PRONTO system and made mention that the revenue issues highlighted by Ms. Landers during the presentation demonstrated a change in the rider's behavior between the two systems. Chair Montgomery Steppe said that the Compass system allowed free transfers throughout the day with a day or monthly pass, making it more accessible for daily riders. Compared to the PRONTO system that only allows two-hour transfer windows which increased the cost for riders leading some to risk receiving an infraction, rather than purchasing an additional ticket to cover their ride. Chair Montgomery Steppe asked about the potential revenue impact of transitioning from an advanced payment system to a stored value system from an accounting perspective. Ms. Landers explained that currently, stored value is not recognized as fare revenue and if a patron purchases a pass but never uses it, the stored value will not be accounted for as fare revenue. Larry Marinesi, MTS Chief Financial Officer, added for clarification that stored value purchases are considered deferred revenue and not recognized as revenue in the data presented. Chair Montgomery Steppe emphasized the importance of distinguishing the two fare systems in the analysis. Ms. Landers commented that as far as fare revenue, patrons may have the idea that once they add funds to their accounts, they believe that MTS has the revenue of the purchased fares, when if their stored value is not being used each time a patron rides, MTS does not count with that revenue. Ms. Cooney added that previously, the stored value in the Compass system raised the same question on what to do with the funds in the accounts. Mr. Marinesi mentioned that if the patrons did not participate in the tapping process, the funds will sit in the accounts until they are used. Chair Montgomery Steppe asked about the impact on MTS revenue following the implementation of a two-hour transfer window compared to the previous system, noting that the agency is not receiving the same amount of money for tapped or untapped trips. Chair Montgomery Steppe highlighted that there are various ongoing discussions, including those on fare evasion and farebox recovery and while these topics are interconnected, they are very different, especially considering the agency's recent overhaul of its revenue system. Chair Montgomery Steppe mentioned the data presented helped clarify the differences among the fare systems and explains why the on-the-

spot payments present a challenge. Chair Montgomery Steppe asked what would happen to the patron if removing the on-the-spot payment was instituted and replaced with the \$25 fine. Ms. Landers responded that the patrons without a fare would receive a citation, be eligible to participate in the diversion program and have four months to pay the \$25 fine, do three hours of community service, appeal, or if the patron decides to not participate, the citation, would be sent to court. Ms. Landers added that in those circumstances there would be more citations issued due to many patrons currently not following public transit rules and instead choosing the on-the-spot payment option. Chair Montgomery Steppe asked from a practical perspective when the \$25 fine is not promoted as an option, acknowledging that there will be back and forth between the CCI that is giving the citation and the person that is receiving it, but mainly determining the difference between going straight to a citation or providing the opportunity to participate in the diversion program. Ms. Landers responded that a citation would take time and stated that it mainly relied on patrons understanding that the \$25 fine will be taken at that time from their account. If they do not present a fare, and if a citation does get issued and the diversion program is offered, there might be more of an understanding instead of receiving backlash from patrons when the \$25 fine gets taken from their account and how that may present an issue between the CCI and the patron now that they won't have a way to finish their ride compared to just paying \$2.50 for a ticket. Ms. Cooney added that at this time, the agency is trying to have open card payments ready to go before Comic-Con and if the agency focuses on programming the pay on the spot \$25 fine, the lengthy process raises a concern with timing for the upcoming events. Chair Montgomery Steppe stated that when it comes to prioritizing operations, timing should not be a reason to discard possible options due to a timing concern. Ms. Cooney stated that the main goal would be to try to implement this new process but not before providing the option to participate in the diversion program, while in the meantime try to surface the questions and concerns that will bring if the on the spot \$25 fine are followed. Chair Montgomery Steppe thanked MTS staff.

Committee Member Hall raised concerns about the \$25 fine and the extended payment terms of the Diversion Program. Committee Member Hall noted that credit card transactions incur a service charge of approximately 3-4%, which should be accounted for in a credit card payment. Additionally, Committee Member Hall suggested the possibility of a separate online payment portal for credit card or check payments and maybe reducing the \$25 fee to \$20 to cover the extra charge. Ms. Landers stated that the agency usually absorbs the credit card fees and is open to the board's direction on this matter. Committee Member Hall inquired about the annual cost to MTS for covering these fees. Ms. Landers explained that the Diversion Program is designed not as a revenue generator but to close loopholes and encourage fare payment, aligning with the agency's civil justice goals. Ms. Landers added that ideally, the usage of the Diversion Program would remain at a normal level, with people paying the \$25 fine once and then continuing to pay their fare regularly. Ms. Landers noted that after implementation, it would be necessary to evaluate if the \$25 fine is appropriate or if it might need adjustment. Committee Member Hall highlighted the data from the PRONTO analysis showing that some patrons have been caught without a fare over 51 times, indicating a disregard for transit revenue and suggested discussing measures to keep such repeat offenders off the transit system. Committee Member Hall also questioned if the fines might not be high enough to deter fare evasion and shared an observation from his PRONTO app, noting he had an unused \$8 fare from two years ago and did not really know how to use it. Committee Member Hall recommended the agency to consider escalating penalties for multiple violations and potentially issue exclusion letters to persistent offenders. Ms. Cooney acknowledged Chair Montgomery Steppe's point about the transfer window issue with the PRONTO system and stated that many patrons have realized they can make four trips for only \$2.50 and has observed this firsthand.

Ms. Cooney shared an observation during a trip of seeing patrons in waiters' uniforms in Pacific Beach likely using both a bus and Trolley to get home, risking fare evasion on the Trolley due to the cost. Ms. Cooney emphasized that this behavior often stems from patrons trying to maximize their household economics, rather than having a criminal mindset. Committee Member Hall emphasized that revenue must eventually become a focus and mentioned that credit card fees cost the agency around several hundred thousand dollars and that over the past two years, revenue losses have ranged between \$14 million and \$19 million. Committee Member Hall stressed the urgency to take action to prevent further revenue loss. Ms. Landers noted that the agency currently lacks the technical capability to manage repeat offenders effectively and stated that implementing such a system would be a significant effort and highlighted that other programs only offer diversion for the first-time offenders, with subsequent offenses resulting in escalating fines. Ms. Landers explained that while staff can run reports on individual PRONTO cards, inspectors in the field cannot determine if an infraction is a patron's first or fiftieth infraction. Ms. Landers expressed hope that future technological advancements would allow this to be integrated into the fare check system and added that one reason the diversion program does not track the number of infractions is a challenge of implementation and the ease with which patrons could cheat the system by switching PRONTO cards. Committee Member Hall mentioned that the possibility of getting contact information such as name, address etc. linked to the cards is possible. Ms. Landers mentioned that regular transit users may need to experience 1-2 diversion program penalties before realizing that evasion is not worth the risk. Ms. Landers emphasized that the PRONTO system provides an affordable option, covering all trip segments, and it is in the passengers' best interests to pay their fares. Committee Member Hall acknowledged the understanding of the budget and losses but expressed concern that, eventually, the budget will not match the revenue. Committee Member Hall stressed the need for immediate changes to avoid total chaos within the next two years.

Committee Member Rodriguez thanked MTS staff for their presentation and expressed feeling conflicted, echoing his colleagues' concerns, noting the disparity between those who consistently pay and those who do not. Committee Member Rodriguez emphasized the need to explore alternative revenue sources to reduce the cost of ridership while acknowledging the ongoing challenge of increasing transit usage to reduce the number of drivers and lower the carbon footprint. Committee Member Rodriguez viewed the increase in ridership from 34 to 38 million within a year as positive and encouraged MTS to continue finding ways to generate revenue to make transit more accessible for everyone.

Committee Member Dillard thanked staff for the presentation and agreed that the increase in ridership was positive and contradicted the local complaints she had received about low ridership on buses and Trolleys. Committee Member Dillard expressed disappointment about the financial losses and emphasized the need to take action. Committee Member Dillard inquired whether there had been a discussion about the unused funds on PRONTO cards, specifically if a time limit could be set for these funds to remain on the card and, if not used, whether they could legally be reclaimed by MTS as revenue. Ms. Landers responded that an analysis has not been conducted, but the primary concern with the suggestion was the customer service impact. Ms. Landers explained that some occasional riders load their PRONTO cards with funds in advance for future events, such as Padres games or events at Snapdragon Stadium, and expect those funds to remain available and implementing a time limit might also generate operational issues. Israel Maldonado, MTS Director of Fare Technology, thanked Committee Member Dillard for her question and noted that this is an issue many agencies with significant amounts of stored value are also grappling with, similar to the unresolved gift card regulations in California. Mr. Maldonado added that there has been ongoing communication among agencies regarding this matter, and it needs to be addressed not just at

the state level but nationally as well. Mr. Maldonado mentioned that some PRONTO cards have not been used for over two years despite having funds available, highlighting the importance of having these discussions. Ms. Landers mentioned that MTS does not typically provide refunds unless in extraordinary circumstances and stated that the issue is less about refunding money and more about the obligation to provide a future ride, which requires keeping the card active. Committee Member Dillard inquired if there was a limit on how much could be added to the card. Mr. Maldonado responded that the limit is \$300 per account, but the concern lies in how to handle balances that remain unused for extended periods. Committee Member Dillard observed that \$300 per account is a significant amount and suggested that if there is no benefit or discount for prepaying beyond the monthly amount, there should be a cap if funds remain unused for 60 to 90 days, with the goal of encouraging patrons to use their funds. Ms. Landers suggested discussing the matter with the finance team and preparing a presentation on the deferred income from stored value, the amount, and the potential next steps. Ms. Landers added that it might not directly address the fare evasion issue but would focus more on how the stored value within the PRONTO fare system could be managed. Committee Member Dillard expressed concern about the unresolved issues related to revenue losses and urged the need for solutions that are both legally sound and beneficial in mitigating the negative impacts and recommended further discussion on the topic.

Chair Montgomery Steppe expressed support for the two-hour transfer window offered by the PRONTO system and the \$25 fine for fare evasion. Chair Montgomery Steppe emphasized the need for policy changes and review, acknowledging that some aspects of the program may currently be ineffective.

**Action Taken**

Informational item only. No action taken.

**OTHER ITEMS**

**8. Committee Member Communications**

There was no Committee Member Communications and Other Business discussion.

**9. Next Meeting Date**

The next Public Security Committee meeting is scheduled for September 20, 2024, at 1:30 p.m.

**10. Adjournment**

Chair Montgomery Steppe adjourned the meeting at 3:44 p.m.

/S/ Monica Montgomery Steppe

/S/ Jasiel Estolano

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Chairperson  
San Diego Metropolitan Transit System

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Committee Clerk  
San Diego Metropolitan Transit System

SAN DIEGO METROPOLITAN TRANSIT SYSTEM  
PUBLIC SECURITY COMMITTEE MEETING

ROLL CALL

MEETING OF (DATE): June 7, 2024 CALL TO ORDER (TIME): 1:33 p.m.

ADJOURN: 3:44 p.m.

REPRESENTING	BOARD MEMBER	ALTERNATE	PRESENT (time arrived)	ABSENT (time left)
Chair	Montgomery Steppe <input checked="" type="checkbox"/>	no alternate	1:33	3:44
Committee Representative	Dillard <input checked="" type="checkbox"/>	no alternate	1:33	3:44
Committee Representative	Donovan <input type="checkbox"/>	no alternate	ABSENT	ABSENT
Committee Representative	Gonzalez <input checked="" type="checkbox"/>	no alternate	1:33	3:44
Committee Representative	Rodriguez <input checked="" type="checkbox"/>	no alternate	1:33	3:44
Committee Representative	Hall <input checked="" type="checkbox"/>	no alternate	1:35	3:44

COMMITTEE CLERK: /S/ Jasiel Estolano



**Metropolitan  
Transit  
System**

## **Agenda Item No. 4**

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM  
PUBLIC SECURITY COMMITTEE (PSC)

September 20, 2024

**SUBJECT:**

Transit Agency Fare Enforcement Model Review (Karen Landers and Dan Brislin)

**RECOMMENDATION:**

That the San Diego Metropolitan Transit System (MTS) Public Security Committee (PSC) receive a report concerning California Transit Agency Fare Enforcement Models, provide direction to staff on additional research to be conducted, and/or provide a recommendation to the MTS Board of Directors regarding a potential change in fare enforcement models.

Budget Impact

Not known at this time. If a proposed change in fare enforcement models is recommended for action or further research, an analysis will be conducted identifying the potential budget impacts of the proposed new model.

**DISCUSSION:**

In general, transit agencies use one of three types of enforcement models to confirm that individual passengers have purchased a transit fare and to impose a penalty if the passenger is found to be riding transit without paying a fare<sup>1</sup>: Criminal, Administrative, or a Criminal/Administrative Hybrid (Hybrid). Today's agenda item will provide a report to the PSC about the different types of enforcement models, a summary of the fare enforcement models used by MTS and other California transit agencies, and an initial list of additional research that would need to be conducted if the PSC recommends that the Board consider a change to MTS's fare enforcement model.

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<sup>1</sup> This violation is generally called "fare evasion". It can also include misuse of a discount pass that the individual is not eligible for.



## **Summary of different types of models: Criminal, Administrative, Hybrid**

### Criminal Penalty by Statute

Under California Penal Code section 640, subdivision (c), a first or second transit fare evasion violation is categorized as a criminal infraction punishable by a fine “not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator’s hours of school attendance or employment.” A third or subsequent fare evasion violation is categorized as a misdemeanor punishable by a fine “of not more than four hundred dollars (\$400) or by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment.”<sup>2</sup>

MTS’s enabling legislation also establishes fare evasion as incurring a criminal penalty of either an infraction or a misdemeanor:

#### *Public Utilities Code section 120450*

Violation of any ordinance, rule, or regulation enacted by the board relating to the nonpayment of a fare on any transit vehicle or in any transit station owned, controlled, or used by the board shall be an infraction punishable by a fine not exceeding seventy-five dollars (\$75), except that a violation by a person, after the second conviction under this section, shall be a misdemeanor punishable by a fine not exceeding five hundred dollars (\$500) or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

### Administrative Penalty Allowed (Opt-In)

Public Utilities Code section 99580 authorizes a public transportation agency to instead impose and enforce an administrative penalty for fare evasion.<sup>3</sup>

If an agency elects to implement the administrative penalty program under Public Utilities Code section 99580, then the statute sets the limits of the program:

1. The notice of fare violation is considered “prima facie evidence of the facts contained in the notice establishing a rebuttable presumption affecting the burden of proof.”
2. The maximum penalty is \$125 for a first or second violation and \$200 for a third or subsequent violation. If the individual provides satisfactory evidence of an inability to pay the penalty in full, the agency shall allow installment or deferred payments or to perform community service in lieu of paying the penalty. Minors must be offered the option to perform community service in lieu of paying the penalty.
3. The individual has 21 days to request initial review of the violation; agency to review and cancel citation if review shows violation did not occur or the interests of justice merit cancellation (Initial Review).

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<sup>2</sup> Effective January 1, 2018, Penal Code section 640(g) does not authorize a criminal (infraction or misdemeanor) penalty for fare evasion violations committed by minors. However, an administrative penalty is allowed, if an agency chooses to implement one under Public Utilities Code section 99580, *et seq.*

<sup>3</sup> This is effective by adopting an ordinance to this effect.

4. If citation is not cancelled after the Initial Review, individual may request administrative hearing within 21 days following the mailing of the Initial Review decision. Individual shall deposit penalty amount due as part of hearing request (with waivers based upon inability to pay). The hearing shall be held within 90 days.<sup>4</sup>
5. The administrative hearing process shall include:
  - a. Choice of hearing by mail or in person. In person hearings shall take place within the agency's jurisdictional area.
  - b. Agency shall adopt procedures for the hearings and shall provide an independent, objective, fair, and impartial review of the contested violations.
  - c. Administrative review shall be conducted by a hearing officer designated by the agency and shall have appropriate qualifications, training and objectivity. Hearing officer compensation shall not be linked to the amount of fare evasion penalties imposed by the hearing officer.
  - d. The agency employee/contactor who issued the notice of fare evasion violation shall not be required to participate in the administrative hearing. The agency shall not be required to produce any evidence other than the notice of fare evasion. The notice is prima facie evidence of the violation.
  - e. The hearing officer's decision may be personally delivered to the person by the hearing officer or sent by mail.
  - f. If the hearing officer determines the fare violation occurred, then the hearing officer shall allow performance of community service in lieu of payment of the penalty; or allow installment payments or deferred payment if the individual provides satisfactory evidence of an inability to pay in full.
  - g. Within 30 days of the hearing officer's decision, the individual may seek review by filing an appeal to be heard by the superior court in a limited civil case with de novo review of the hearing officer's record (\$25 superior court filing fee).

### Hybrid Programs

Some agencies implement a combination of Criminal and Administrative programs – either having certain enforcement officers issue different types of citations for fare evasion violations, or by having a graduated program of first offering an administrative penalty but then defaulting or escalating to a criminal penalty.

### **MTS Fare Enforcement Model – Hybrid**

MTS's current fare enforcement model is categorized as a hybrid. By statute (Penal Code 640(c) and Public Utilities Code section 120450), the violation is categorized as criminal with a potential infraction or misdemeanor penalty. The first violation is a \$75 fine.<sup>5</sup> In practice, MTS does not identify escalating fare violations, therefore all violations result in a \$75 penalty fine. Court-related fees are also added to the statutory fine during the court process.

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<sup>4</sup> A one-time 21-day extension may be requested under Public Utilities Code section 99581(b).

<sup>5</sup> \$75 is the maximum penalty for a first violation under Public Utilities Code section 120450 and MTS Ordinance No. 2. Penal Code section 640 has different penalty limits, which would allow a fine of up to \$200 for first and second violations; and up to \$400 for subsequent violations. The conflict between the fine amounts in Penal Code 640 and Public Utilities Code section 120450 has not been litigated.



However, the MTS Board-approved Diversion Program offers an administrative penalty option if the individual chooses to participate and either pays a reduced \$25 fine or completes three hours of community service within 120 days. If so, then the citation is discarded by MTS and never entered into the court system. If the Diversion Program is not completed, then the citation is sent to the superior court for hearing and adjudication.

**Other Agency Fare Enforcement Model Summaries**

Fare enforcement on rail transit is different from fare enforcement on buses because there are more opportunities to evade the fare requirements on rail service. Typically, on a bus, a passenger pays their fare in front of the bus operator upon entering the vehicle and before proceeding to a seat. Rail systems generally do not have a single gatekeeper that can confirm each passenger pays a fare. In a barrier system, a passenger may be required to pay a fare at a turnstile before entering a rail station, but the station itself may not be continuously staffed with enforcement personnel to ticket individuals who jump the turnstile. In barrier-free systems, there is no gate or turnstile that a passenger has to pass through upon entering the station. Rail vehicles arrive in the station with multiple railcars and several doors per car. The rail operator normally stays in the driver cab and is focused on safely driving the vehicle, not monitoring passenger fares or conduct. While fare evasion occurs on buses, the focus of MTS’s fare enforcement is at the trolley stations. Therefore, in identifying other California transit agencies to study, agencies that include rail service were selected.

Eight (8) California transit agencies who operate rail service were identified. Of those agencies, three (3) agencies have a criminal fare enforcement model, two (2) have an administrative model, and three (3) have hybrid models. A summary of each program is included in Attachment A.

Criminal Enforcement Model	Administrative Model	Hybrid Model
North County Transit District (NCTD)	LA Metro	Bay Area Rapid Transit (BART)
Sacramento Regional Transit District (SacRT)	San Francisco Muni	Santa Clara Valley Transportation Authority (VTA)
Metrolink		Caltrain

In comparison to the processes employed by the above agencies, the MTS Diversion Program's reduced fine and community service options appear to be significantly lower:

MTS fine of \$25 or 3 hours of community service

vs.

fines of \$75-\$130 (or \$125 to \$261 including late fees and/or collections fees)  
 or at least 5 hours of community service

### **Additional Research Required if Change in Fare Enforcement Model is Recommended**

If MTS were to pursue changing its fare enforcement model to convert to a formal administrative penalty process under Public Utilities Code section 99580, additional research and decisions would need to be made about that new program. Staff's initial review has identified the following areas that the PSC, the Board, and/or staff would need to know or refine:

#### Establish Proposed Scope of MTS Administrative Penalty Program

1. Fine Amount to be imposed
2. Community Service Hours to be imposed in lieu of paying the Fine Amount
3. Should MTS Institute a Different Penalty Amount for Subsequent Violations
4. Should MTS impose Late Fees or Collection Fees for untimely or unpaid penalties
5. What should be the consequences of unresolved administrative citations (E.g., send citation order to collections, issue an exclusion order (how to enforce?))

#### Identify Resources Needed and Costs to Implement

Based on the proposed scope identified in the process above, the resources and budget needs would be calculated, including the following:

1. Staff or third-party contract needs (collecting fines, reviewing community service hours, scheduling appeal hearings, designated hearing officers, mailing correspondence to confirm citation resolved / unresolved, application of late fees, notice submitted to collections, developing reports on administrative program generally, etc.)
2. Capital needs (hearing location; new citation software & hardware; database tools, etc.)
  - a. If graduated offenses, then new technology and equipment will be required
3. Collections Vendor

#### Other Impacts a Change in Enforcement Models May Create on MTS Operations

In reviewing potential other impacts that a change from a Criminal/Hybrid model to a purely Administrative Fare Enforcement Model could have on MTS's current Transit Security and Passenger Safety department operations, an important question came up that merits additional research before any changes are made:

*Will MTS and law enforcement partners still have probable cause to detain fare evaders and write them a citation for fare enforcement under administrative penalty program?*

In practical terms, if our officers do not have probable cause to detain someone under an Administrative Penalty program, then there are additional questions about how MTS could implement the new program. If there is no probable cause to detain, then there would be no obligation for the fare evader to cooperate with the citation process – they would be allowed to simply leave and our officers would potentially face unlawful detention claims if they tried to obstruct or block their path from leaving until the administrative citation is written. It is also unclear if a citation for failure to comply with a lawful order would be available to mitigate the risk of an uncooperative fare evader. It is also unclear if MTS officers would be allowed to force a fare evader to de-board if they don't have a fare.

The San Diego Police Department (SDPD) has informed MTS that it does not believe there would be probable cause for SDPD to detain and write citations under an administrative penalty model, and therefore they would not be able to support future Special Enforcement Details or Joint Task Forces (since the main joint patrol activity is fare enforcement) if MTS changes its fare enforcement model to a purely Administrative Penalty program. SDPD stated that the legal risk of unconstitutional detentions would be too high for them to continue these joint enforcement efforts.

Similarly, during our research interviews, staff at administrative citation agencies appeared to agree that agency fare enforcement personnel do not have probable cause to detain during an administrative citation process.

#### **Potential Action by Public Security Committee**

Following the presentation concerning California Transit Agency Fare Enforcement Models, the PSC is requested to provide direction to staff on additional research to be conducted, and/or provide a recommendation to the MTS Board of Directors regarding a potential change in fare enforcement models.

/S/ Sharon Cooney

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Sharon Cooney  
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, [Julia.Tuer@sdmts.com](mailto:Julia.Tuer@sdmts.com)

Attachments: A. Comparable Transit Agency Fare Enforcement Model Chart  
B. Text of Penal Code section 640 and Public Utilities Code sections 99580-99582.

San Diego Metropolitan Transit System  
 Fare Compliance Research Program Summary of California Transit Agencies with Rail Service (as of 9/5/2024)

	MTS	NCTD	METRO	BART	SACRT	MUNI	VTA	METROLINK	CALTRAIN
Service Area	Central and Southern San Diego County (Cities of San Diego, Poway, Lemon Grove, La Mesa, El Cajon, Santee, Chula Vista, National City, Imperial Beach, and Coronado)	Northern San Diego County (Cities of Del Mar, Solana Beach, Encinitas, Carlsbad, Oceanside, Vista, San Marcos, and Escondido)	Los Angeles County	Counties include San Francisco, San Mateo, Alameda, Contra Costa, and Santa Clara	Sacramento County	San Francisco County	Santa Clara County	Counties include Los Angeles, Orange, Riverside, San Bernardino, Ventura and North San Diego	Counties include Santa Clara, San Francisco, and San Mateo
Operated Services	Light Rail, Fixed Route Bus, Paratransit	Commuter Rail, Hybrid Rail, Fixed Route Bus, On-Demand, Paratransit	Subway / Heavy Rail, Light Rail, Fixed Route Bus, Paratransit	Heavy Rail	Light Rail, Fixed Route Bus, Paratransit	Light Rail, Streetcars, Cable Cars, Fixed Route Buses, Paratransit	Light Rail, Fixed Route Bus, Paratransit	Commuter Rail	Commuter Rail
Type of Rail System	Non-Barrier System	Non-Barrier System	Barrier System for Subway; Barrier & Non-Barrier System for Light Rail	Barrier System (i.e. fare gates)	Non-Barrier System	Non-Barrier System (except at certain Light Rail stations)	Non-Barrier System	Non-Barrier System	Non-Barrier System (except for in San Francisco)
Operating Budget	FY 24 - \$407,000,000	FY 24 - \$185,488,620	FY 24 -\$2,749,600,000	FY 24 -\$1,100,000,000	FY 24 - \$249,500,000	FY 24 - \$1,406,900,000	FY 24 - \$603,800,000	FY 24 - \$305,921,777	FY 24 - \$192,700,000
Farebox Recovery %	FY 24 - 21%	FY 24: 5.7% (Coaster 8.3%, Sprinter 1.9%)	FY 24 - 6.2%	FY 24 - 24%	FY 24 - 6.9%	Not found	FY 24 - 5%	FY 24 - 12.6%	Not found
Fare Evasion %	CY 24 Q1 - 32.32% (Light Rail Only), fare inspection of all passengers of trolley car	7/1/23-9/30/23 - 50% for Coaster and 66% for Sprinter, of passengers presenting a fare card, % of non-valid fare	No recent data provided	FY 24 Q2 - 22%, customer survey of those that witnessed fare evasion, otherwise no recent data provided.	FY 24 - 1.5%, number of fare citations divided by total inspections	No recent data provided	No recent data provided	No recent data provided	No recent data provided
Fare Compliance Program Type	Hybrid (Criminal cites with administrative Diversion Program option)	Criminal cites	Administrative cites	Hybrid (Criminal cites and Administrative cites)	Criminal cites	Administrative cites	Hybrid (Criminal cites and "Civil Summons)	Criminal cites	Hybrid (Criminal and Administrative cites)  <i>In practice, only implementing Administrative at this time</i>
Staffing	Fare inspections and issuance of cites by Code Compliance Inspectors (CCI) and Transit Security Officers can also conduct fare inspections.	Fare inspections by Train Attendants or contracted Sheriff's Department. Sheriff's Department can issue cites.	Fare Inspections and issuance of cites by Fare Inspectors. Contract with Sheriff's Department and Police Departments.  <i>Developing in -house Transit Police (5-year transition plan)</i>	Fare inspections and administrative cites can be issued by Fare Inspectors. In-house Transit Police can issue criminal cites.	Fare inspections and cites by Transit Ambassadors, and contracted Police Department and Sheriff's Department.	Fare inspections and issuance of cite by Fare Inspectors. Fare inspections on Cable Cars by Conductors. Contract with Police Department ( <i>but no dedicated deputies at this time</i> )	Fare inspections and civil summons can be issued by Fare Inspectors. Contracted Sheriff's Department can issue criminal cites.	Fare Inspections may be conducted by Conductors, Transit Security Officers or by contracted Sheriff's Department. Sheriff's Department can issue cites. Also contracts with Police Departments.	Fare inspections by Conductors and can issue administrative cites. Contract with Sheriff's Department and can issue criminal cites.
Found without Valid Fare	Per Pilot Diversion Program, pay fare on the spot (TVM or validation of stored value) or subject to cite	Subject to citation.  Not established in policy, but in practice may in the discretion of NCTD staff be allowed to pay for fare on the spot	Subject to citation. Third or more fare violation subject to exclusion.  Not established in policy, but in practice may in the discretion of METRO staff be allowed to pay for fare on the spot.	Subject to citation. Zero tolerance policy. Third or more fare violation subject to criminal citation.	Subject to citation.  Not established in policy, but in practice may in the discretion of SACRT staff be allowed to pay for fare on the spot.	Subject to citation. In practice, zero tolerance policy.	Subject to citation.  Not established in policy, but in practice may in the discretion of VTA staff be allowed to pay for fare on the spot.	Subject to citation.  Not established in policy, but in practice may in the discretion of METROLINK staff be allowed to pay for fare (purchase at TVM or app / no technology to validate)	Subject to citation. Zero tolerance policy. Third or more fare violation subject to criminal citation or exclusion for 90 days.  <i>In practice, not implementing graduated penalties at this time</i>
Administrative Resolution of Citation	If eligible for Diversion Program, \$25, 3 hours of Community Service within 120 days; or limited appeal within 15 days  <i>In-house staff and resources used for implementation of Diversion Program</i>	None	\$75, 5 hours of Community Service, or Appeal/Hearing Officer, within 21 days. Late Fees apply, 1 <sup>st</sup> missed deadline \$25, 2 <sup>nd</sup> missed deadline, an add. \$25 (up to \$125 total per cite)  <i>Contract with Axiom for implementation of Administrative Program and bench of lawyers to perform as Hearing Officers</i>	If administrative cite, \$75, 5 hours of Community Service, Online Transit School to reduce fine to \$50 (may use only once a year), or Appeal/Hearing Officer within 21 days. Late Fees apply, 1 <sup>st</sup> missed deadline \$25, 2 <sup>nd</sup> missed deadline, an add. \$25 (up to \$125 total per cite)  <i>Contract with Dataticket for implementation of Administration Program and a retired Lieutenant to perform as Hearing Officer</i>	None	\$130, \$20 for every hour of Community Service credit (6+hours), or Appeal/Hearing Officer, within 21 days. Late Fees apply, 1 <sup>st</sup> missed deadline \$38, 2 <sup>nd</sup> missed deadline add. \$53, and Collections Fee \$40 (up to \$261 total per cite)  <i>In-house staff and resources used for implementation of Administrative Program and Hearing Officers</i>	<i>Pending confirmation on how a civil summons can be resolved.</i>	None	If administrative cite, \$75, ( <i>pending confirmation on number of hours of Community Service</i> ), or Appeal/Hearing Officer, within 21 days. Late Fees apply, 1 <sup>st</sup> missed deadline \$25 and Collections Fee \$30 (up to \$130 total per cite)  <i>Contract with Turbo Data for implementation of Administration Program (and pending confirmation on who performs as Hearing Officers)</i>
Unresolved Citations	Court	Court	Exclusion for an extended period (30, 60 or 90 days)	If administrative cite, Collections / Franchise Tax Board (FTB); if criminal cite, Court	Court	Collections/FTB	<i>Pending confirmation on what happens to an unresolved civil summons. If criminal cite, Court</i>	Court	If administrative cite, Collections/FTB; if criminal cite, Court

**Penal Code - PEN****PART 1. OF CRIMES AND PUNISHMENTS [25 - 680.4]**

*( Part 1 enacted 1872. )*

**TITLE 15. MISCELLANEOUS CRIMES [626 - 653.75]**

*( Title 15 enacted 1872. )*

**CHAPTER 2. Of Other and Miscellaneous Offenses [639 - 653.2]**

*( Chapter 2 enacted 1872. )*

**640.**

(a) (1) Any of the acts described in paragraphs (1) to (6), inclusive, of subdivision (b) is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment. Except as provided in subdivision (g), any of the acts described in paragraphs (1) to (3), inclusive, of subdivision (c), upon a first or second violation, is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during the violator's hours of school attendance or employment. Except as provided in subdivision (g), a third or subsequent violation of any of the acts described in paragraphs (1) to (3), inclusive, of subdivision (c) is a misdemeanor punishable by a fine of not more than four hundred dollars (\$400) or by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment. Any of the acts described in subdivision (d) shall be punishable by a fine of not more than four hundred dollars (\$400), by imprisonment in a county jail for a period of not more than 90 days, or by both that fine and imprisonment.

(2) This section shall apply only to acts committed on or in a facility or vehicle of a public transportation system.

(b) (1) Eating or drinking in or on a system facility or vehicle in areas where those activities are prohibited by that system.

(2) Playing unreasonably loud sound equipment on or in a system facility or vehicle, or failing to comply with the warning of a transit official related to disturbing another person by loud or unreasonable noise.

(3) Smoking in or on a system facility or vehicle in areas where those activities are prohibited by that system.

(4) Expectorating upon a system facility or vehicle.

(5) Skateboarding, roller skating, bicycle riding, roller blading, or operating a motorized scooter or similar device, as defined in Section 407.5 of the Vehicle Code, in a system facility, vehicle, or parking structure. This paragraph does not apply to an activity that is necessary for utilization of the

transit facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard a transit vehicle, if that activity is conducted with the permission of the transit agency in a manner that does not interfere with the safety of the bicyclist or other patrons of the transit facility.

(6) Selling or peddling any goods, merchandise, property, or services of any kind whatsoever on the facilities, vehicles, or property of the public transportation system if the public transportation system has prohibited those acts and neither the public transportation system nor its duly authorized representatives have granted written consent to engage in those acts.

(c) (1) Evasion of the payment of a fare of the system. For purposes of this section, fare evasion includes entering an enclosed area of a public transit facility beyond posted signs prohibiting entrance without obtaining valid fare, in addition to entering a transit vehicle without valid fare.

(2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.

(3) (A) Unauthorized use of a discount ticket or failure to present, upon request from a transit system representative, acceptable proof of eligibility to use a discount ticket, in accordance with Section 99155 of the Public Utilities Code and posted system identification policies when entering or exiting a transit station or vehicle. Acceptable proof of eligibility must be clearly defined in the posting.

(B) If an eligible discount ticket user is not in possession of acceptable proof at the time of request, a citation issued shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, the citation shall be voided. If the proof is not produced within that time period, the citation shall be processed.

(d) (1) Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.

(2) Carrying an explosive, acid, or flammable liquid in a public transit facility or vehicle.

(3) Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition.

(4) Willfully blocking the free movement of another person in a system facility or vehicle. This paragraph shall not be interpreted to affect any lawful activities permitted or First Amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes.

(5) Willfully tampering with, removing, displacing, injuring, or destroying any part of a facility or vehicle of a public transportation system.

(e) Notwithstanding subdivision (a) or (g), a public transportation agency, as defined in paragraph (4) of subdivision (c) of Section 99580 of the Public Utilities Code, may do either of the following:

(1) Enact and enforce an ordinance providing that a person who is the subject of a citation for any of the acts described in subdivision (b) of Section 99580 of the Public Utilities Code on or in a facility or vehicle described in subdivision (a) for which the public transportation agency has jurisdiction shall, under the circumstances set forth by the ordinance, be afforded an opportunity to complete an administrative process that imposes only an administrative penalty enforced in a civil proceeding. The ordinance for imposing and enforcing the administrative penalty shall be governed by Chapter 8 (commencing with Section 99580) of Part 11 of Division 10 of the Public Utilities Code.

(2) Enforce as an infraction pursuant to subdivision (b) the act of failing to yield seating reserved for an elderly or disabled person in a facility or vehicle for which the public transportation agency has jurisdiction, provided that the governing board of the public transportation agency enacts an ordinance to that effect after a public hearing on the issue.

(f) For purposes of this section, “facility or vehicle of a public transportation system” means any of the following:

(1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code.

(2) A facility of, or vehicle operated by, an entity subsidized by, the Department of Transportation.

(3) A facility or vehicle of a rail authority, whether owned or leased, including, but not limited to, any part of a railroad, or track of a railroad, or any branch or branchway, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture, or any part thereof, attached or connected to a railroad.

(4) A leased or rented facility or vehicle for which any of the entities described in paragraph (1), (2), or (3) incurs costs of cleanup, repair, or replacement as a result of any of those acts.

(g) A minor shall not be charged with an infraction or a misdemeanor for violation of paragraphs (1) to (3), inclusive, of subdivision (c). Nothing in this subdivision shall limit the ability of a public transportation agency to assess an administrative penalty as established in paragraph (1) of subdivision (e) and in Section 99580 of the Public Utilities Code, not to exceed one hundred twenty-five dollars (\$125) upon a first or second violation and not to exceed two hundred dollars (\$200) upon a third or subsequent violation, to permit the performance of community service in lieu of payment of the fare evasion or passenger conduct penalty pursuant to Section 99580 of the Public Utilities Code, or to allow payment of the fare evasion or passenger conduct penalty in installments or deferred payment pursuant to Section 99580 of the Public Utilities Code.

*(Amended by Stats. 2017, Ch. 219, Sec. 1. (SB 614) Effective January 1, 2018.)*

**Public Utilities Code - PUC**

**DIVISION 10. TRANSIT DISTRICTS [24501 - 107025]**

*( Division 10 repealed and added by Stats. 1955, Ch. 1036. )*

**PART 11. PROVISIONS APPLICABLE TO ALL PUBLIC TRANSIT [99150 - 99582]**

*( Part 11 added by Stats. 1968, Ch. 1325. )*

**CHAPTER 8. Administrative Enforcement for Fare Evasion and Prohibited Conducts [99580 - 99582]**

*( Chapter 8 added by Stats. 2006, Ch. 258, Sec. 2. )*

**99580.**

(a) Pursuant to subdivision (e) of Section 640 of the Penal Code, a public transportation agency may enact and enforce an ordinance to impose and enforce an administrative penalty for any of the acts described in subdivision (b).

(b) (1) Evasion of the payment of a fare of the system.

(2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.

(3) Playing unreasonably loud sound equipment on or in a system facility or vehicle, or failing to comply with the warning of a transit official related to disturbing another person by loud or unreasonable noise.

(4) Smoking a tobacco product, eating, or drinking in or on a system facility or vehicle in those areas where those activities are prohibited by that system.

(5) Expectoring upon a system facility or vehicle.

(6) Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.

(7) Carrying an explosive or acid, flammable liquid, or toxic or hazardous material in a system facility or vehicle.

(8) Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition.

(9) (A) Willfully blocking the free movement of another person in a system facility or vehicle.

(B) This paragraph shall not be interpreted to affect any lawful activities permitted or First Amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes.



(10) Skateboarding, roller skating, bicycle riding, or roller blading in a system facility, including a parking structure, or in a system vehicle. This paragraph does not apply to an activity that is necessary for utilization of a system facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a bicycle or transporting a bicycle aboard a system vehicle, if that activity is conducted with the permission of the agency of the system in a manner that does not interfere with the safety of the bicyclist or other patrons of the system facility.

(11) (A) Unauthorized use of a discount ticket or failure to present, upon request from a system representative, acceptable proof of eligibility to use a discount ticket, in accordance with Section 99155, and posted system identification policies when entering or exiting a system station or vehicle. Acceptable proof of eligibility must be clearly defined in the posting.

(B) If an eligible discount ticket user is not in possession of acceptable proof at the time of request, an issued notice of fare evasion or passenger conduct violation shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, that notice shall be voided. If the proof is not produced within that time period, that notice shall be processed.

(12) Selling or peddling any goods, merchandise, property, or services of any kind whatsoever on the facilities, vehicles, or property of the public transportation system without the express written consent of the public transportation system or its duly authorized representatives.

(13) Failing to yield seating reserved for an elderly or disabled person.

(c) (1) The public transportation agency may contract with a private vendor or governmental agency for the processing of notices of fare evasion or passenger conduct violation, and notices of delinquent fare evasion or passenger conduct violation pursuant to Section 99581.

(2) For the purpose of this chapter, “processing agency” means either of the following:

(A) The agency issuing the notice of fare evasion or passenger conduct violation and the notice of delinquent fare evasion or passenger conduct violation.

(B) The party responsible for processing the notice of fare evasion or passenger conduct violation and the notice of delinquent violation, if a contract is entered into pursuant to paragraph (1).

(3) For the purpose of this chapter, “fare evasion or passenger conduct violation penalty” includes, but is not limited to, a late payment penalty, administrative fee, fine, assessment, and costs of collection as provided for in the ordinance.

(4) For the purpose of this chapter, “public transportation agency” shall mean a public agency that provides public transportation as defined in paragraph (1) of subdivision (f) of Section 1 of Article XIX A of the California Constitution.

(5) All fare evasion and passenger conduct violation penalties collected pursuant to this chapter shall be deposited with the public transportation agency that issued the citation.

(d) (1) If a fare evasion or passenger conduct violation is observed by a person authorized to enforce the ordinance, a notice of fare evasion or passenger conduct violation shall be issued. The notice shall set forth the violation, including reference to the ordinance setting forth the administrative penalty, the date of the violation, the approximate time, and the location where the violation occurred. The notice shall include a printed statement indicating the date payment is required to be made, and the procedure for contesting the notice. The notice shall be served by personal service upon the violator. The notice, or copy of the notice, shall be considered a record kept in the ordinary course of business of the issuing agency and the processing agency, and shall be prima facie evidence of the facts contained in the notice establishing a rebuttable presumption affecting the burden of producing evidence.

(2) When a notice of fare evasion or passenger conduct violation has been served, the person issuing the notice shall file the notice with the processing agency.

(3) If, after a notice of fare evasion or passenger conduct violation is issued pursuant to this section, the issuing officer determines that there is incorrect data on the notice, including, but not limited to, the date or time, the issuing officer may indicate in writing on a form attached to the original notice the necessary correction to allow for the timely entry of the corrected notice on the processing agency's data system. A copy of the correction shall be mailed to the address provided by the person cited at the time the original notice of fare evasion or passenger conduct violation was served.

(4) If a person contests a notice of fare evasion or passenger conduct violation, the issuing agency shall proceed in accordance with Section 99581.

(e) In setting the amounts of administrative penalties for the violations listed in subdivision (b), the public transportation agency shall not establish penalty amounts that exceed one hundred twenty-five dollars (\$125) upon a first or second violation and two hundred dollars (\$200) upon a third or subsequent violation.

(f) The issuing agency shall allow payment of the fare evasion or passenger conduct penalty or penalties in installments or deferred payment if the total amount of the fines is two hundred dollars (\$200) or more and the person provides satisfactory evidence of an inability to pay the penalty or penalties in full.

(g) (1) Except as provided in paragraph (2), the issuing agency shall permit the performance of community service in lieu of payment of the fare evasion or passenger conduct penalty if the person is under 18 years of age or if the person provides satisfactory evidence of an inability to pay the fare evasion or passenger conduct penalty in full. The issuing agency may require the performance of community service at transit facilities, as defined in subdivision (f) of Section 640 of the Penal Code.

(2) The issuing agency is not required to permit the performance of community service in lieu of payment for a fare evasion or passenger conduct penalty if the person has had more than three fare evasion or passenger conduct penalties for which he or she was permitted to perform community service pursuant to paragraph (1), and did not complete any community service, provided that the person was offered a community service placement and was given adequate time to comply with the community service requirement.

(h) A person who receives a notice of fare evasion or passenger conduct violation pursuant to this section shall not be subject to citation for a violation of Section 640 of the Penal Code.

(i) If an entity enacts an ordinance pursuant to this section it shall, both two years and five years after enactment of the ordinance, report all of the following information to the Senate Committee on Transportation and Housing and the Assembly Committee on Transportation:

(1) A description of the ordinance, including the circumstances under which an alleged violator is afforded the opportunity to complete the administrative process.

(2) The amount of the administrative penalties.

(3) The number and types of citations administered pursuant to the ordinance.

(4) To the extent available, a comparison of the number and types of citations administered pursuant to the ordinance with the number and types of citations issued for similar offenses and administered through the courts both in the two years prior to the ordinance and, if any, since enactment of the ordinance.

(5) A discussion of the effect of the ordinance on passenger behavior.

(6) A discussion of the effect of the ordinance on revenues to the entity described in subdivision (a) and, in consultation with the superior courts, the cost savings to the county courts. The superior courts are encouraged to collaborate on and provide data for this report.

(j) For purposes of this section, "smoking" has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

(k) For purposes of this section, "tobacco product" means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

*(Amended by Stats. 2017, Ch. 219, Sec. 2. (SB 614) Effective January 1, 2018.)*

#### **99580.5.**

A transit district's ordinance may be enforced outside of the transit district's jurisdiction only where the local jurisdiction has adopted the transit district's ordinance by reference as authorized by the local jurisdictions' governing body.

*(Added by Stats. 2021, Ch. 534, Sec. 4. (AB 1337) Effective January 1, 2022.)*

**99581.**

(a) For a period of 21 calendar days from the issuance to a person of the notice of fare evasion or passenger conduct violation, the person may request an initial review of the violation by the issuing agency. The request may be made by telephone, in writing, or in person. There shall be no charge for this review. If, following the initial review, the issuing agency is satisfied that the violation did not occur or that extenuating circumstances make dismissal of the administrative penalty appropriate in the interest of justice, the issuing agency shall cancel the notice. The issuing agency shall advise the processing agency, if any, of the cancellation. The issuing agency or the processing agency shall mail the results of the initial review to the person contesting the notice and if following that review, cancellation of the notice does not occur, the agency shall include a reason for that denial, notification of the ability to request an administrative hearing, and notice of the procedure adopted pursuant to subdivision (b) for waiving prepayment of the penalty based upon inability to pay.

(b) If the person is dissatisfied with the results of the initial review, the person may request an administrative hearing of the violation no later than 21 calendar days following the mailing of the results of the issuing agency's initial review. The request may be made by telephone, in writing, or in person. The person requesting an administrative hearing shall deposit with the processing agency the amount due under the notice for which the administrative hearing is requested. The issuing agency shall adopt a written procedure to allow a person to request an administrative hearing without payment of the amount due upon satisfactory proof of an inability to pay the amount due. An administrative hearing shall be held within 90 calendar days following the receipt of a request for an administrative hearing, excluding time tolled pursuant to this chapter. The person requesting the hearing may request one continuance, not to exceed 21 calendar days.

(c) The administrative hearing process shall include all of the following:

(1) The person requesting a hearing shall have the choice of a hearing by mail or in person. An in-person hearing shall be conducted within the jurisdiction of the issuing agency. If an issuing agency contracts with a private vendor pursuant to paragraph (1) of subdivision (c) of Section 99580, hearings shall be held within the jurisdiction of the issuing agency.

(2) The administrative hearing shall be conducted in accordance with written procedures established by the issuing agency and approved by the governing body or chief executive officer of the issuing agency. The hearing shall provide an independent, objective, fair, and impartial review of contested violations.

(3) The administrative review shall be conducted before a hearing officer designated to conduct the review by the issuing agency's governing body or chief executive officer. In addition to any other requirements of employment, a hearing officer shall demonstrate those qualifications, training, and objectivity prescribed by the issuing agency's governing body or chief executive as are necessary and which are consistent with the duties and responsibilities set forth in this chapter. The hearing officer's continued employment, performance evaluation, compensation, and benefits shall not be

directly or indirectly linked to the amount of fare evasion or passenger conduct violation penalties imposed by the hearing officer.

(4) The person who issued the notice of fare evasion or passenger conduct violation shall not be required to participate in an administrative hearing. The issuing agency shall not be required to produce any evidence other than the notice of fare evasion or passenger conduct violation. The documentation in proper form shall be prima facie evidence of the violation pursuant to paragraph (1) of subdivision (d) of Section 99580.

(5) The hearing officer's decision following the administrative hearing may be personally delivered to the person by the hearing officer or sent by first-class mail.

(6) Following a determination by the hearing officer that a person committed the violation, the hearing officer may, and consistent with subdivision (f) of Section 99580, shall, allow payment of the fare evasion or passenger conduct penalty in installments or deferred payment if the person provides satisfactory evidence of an inability to pay the fare evasion or passenger conduct penalty in full. The hearing officer may, and consistent with subdivision (g) of Section 99580, shall, permit the performance of community service in lieu of payment of the fare evasion or passenger conduct penalty.

*(Amended by Stats. 2017, Ch. 219, Sec. 3. (SB 614) Effective January 1, 2018.)*

#### **99582.**

(a) Within 30 calendar days after the mailing or personal delivery of the decision described in subdivision (c) of Section 99581, the person may seek review by filing an appeal to be heard by the superior court where the same shall be heard de novo, except that the contents of the processing agency's file in the case shall be received in evidence. A copy of the notice of fare evasion or passenger conduct violation shall be admitted into evidence as prima facie evidence of the facts stated therein establishing a rebuttable presumption affecting the burden of producing evidence. A copy of the notice of appeal shall be served in person or by first-class mail upon the processing agency by the person filing the appeal. For purposes of computing the 30-calendar-day period, Section 1013 of the Code of Civil Procedure shall be applicable. A proceeding under this subdivision is a limited civil case.

(b) Notwithstanding any other provision of law, the fee for filing the notice of appeal shall be as provided in Section 70615 of the Government Code. The court shall request that the processing agency's file on the case be forwarded to the court, to be received within 15 calendar days of the request. The court shall notify the appellant of the appearance date by mail or personal delivery. The court shall retain the fee regardless of the outcome of the appeal. If the court finds in favor of the appellant, the amount of the filing fee shall be reimbursed to the appellant by the processing agency. Any deposit of fare evasion or passenger conduct penalty shall be refunded by the processing agency in accordance with the judgment of the court.

(c) The conduct of the appeal under this section is a subordinate judicial duty that may be performed by a commissioner and other subordinate judicial officers at the direction of the presiding judge of the court.

(d) If a notice of appeal of the processing agency's decision described in subdivision (c) of Section 99581 is not filed within the period set forth in subdivision (a), that decision shall be deemed final.

*(Amended by Stats. 2007, Ch. 738, Sec. 42. Effective January 1, 2008.)*



**Metropolitan  
Transit  
System**

Item. 4, 09/20/2024

# **TRANSIT AGENCY FARE ENFORCEMENT MODEL REVIEW**

## **Public Security Committee**

# FARE ENFORCEMENT MODEL TYPES

- Criminal
- Administrative
- Hybrid



# CRIMINAL PENALTY BY DEFAULT

- By Statute (Penal Code section 640; Pub Util. Code section 120450)
  - Penal Code 640(c)
    - 1st & 2nd violations = infraction w/ fine up to \$250 and up to 48 hours of community service within 30 days.
    - 3rd + violations = misdemeanor w/ fine up to \$400 and/or 90 days jail
  - MTS Enabling Legislation
    - 1st violation = infraction w/ fine up to \$75
    - 2nd + violations = misdemeanor w/ fine up to \$500 and/or 6 months jail
- Cited for fare evasion: sent to court for adjudication & determination of punishment

# ADMINISTRATIVE PENALTY ALLOWED

- Pub. Util. Code section 99580-99582 authorizes agency to instead impose and enforce administrative penalty for fare evasion.
- *Transfers responsibility for managing the adjudication and penalty process from Superior Court to transit agency.*
- Sets rules of how the agency may adjudicate and enforce citations for fare evasion.
  - Citation = prima facie evidence of fare evasion (rebuttable presumption)
  - Max \$125 penalty (1st and 2nd violations); \$200 (3rd + violations)
    - Installment/deferred payment plans (upon proof of inability to pay)
    - Community service (option required for minors)
  - 21 days to request Initial Review (appeal to agency); citation dismissed if no fare violation occurred or interests of justice merit cancellation
  - If not cancelled, administrative hearing may be requested (within 21 days of Initial Review decision)

# ADMINISTRATIVE HEARING RULES

If requested, Administrative Hearing held within 90 days:

- By mail or in person hearing
  - deposit of penalty (\$75-\$125) required at time of hearing request (inability to pay waiver available)
- Procedures for independent, objective, fair, and impartial review of contested violations
- Hearing officer shall have appropriate qualifications, training, and objectivity
  - compensation NOT linked to # of fines/penalties imposed by officer
- Agency not required to present evidence or testimony at the hearing. Citation = evidence that fare violation occurred
- Within 30 days, may request Superior Court review of hearing officer's decision

# HYBRID FARE ENFORCEMENT MODEL

- Combination of Criminal and Administrative Enforcement
  - Administrative and Law Enforcement officers issue different cites
  - MTS: diversion program = administrative option before contesting cite in court

# MTS FARE ENFORCEMENT MODEL

## HYBRID CATEGORY

- Criminal Citation but Administrative Option to Resolve before Hearing:
  - 15 days to Appeal because no violation occurred or interests of justice merit dismissal  
→ *similar to Administrative Initial Review Process*
    - TVM not working
    - Monthly pass product not working or left at home
    - Staff pulls video & records, investigates, & decides if cite should be dismissed
  - 120 days to resolve by paying \$25 fine or completing 3 hours of community service
- No Participation in Diversion → Citation entered in court system for hearing/adjudication
- MTS Staff also works with participants on individualized plans where appropriate & coordinates post-conviction relief with Public Defender's Office/Homeless Court

# SURVEY OF CALIFORNIA TRANSIT AGENCIES

Criminal Enforcement Model	Administrative Model	Hybrid Model
North County Transit District (NCTD)	LA Metro	Bay Area Rapid Transit (BART)
Sacramento Regional Transit District (SacRT)	San Francisco Muni	Santa Clara Valley Transportation Authority (VTA)
Metrolink		Caltrain

# CRIMINAL ENFORCEMENT AGENCIES

	NCTD	SACRT	METROLINK
Rail Service	Non-barrier system; Commuter and Hybrid Rail	Non-barrier system; Light Rail	Non-barrier system; Commuter Rail
Found without valid fare	Subject to criminal citation.		
Administrative Resolution Option	Not offered		
Resolution of citation	Citations sent to court. Results in a monetary fine. If financial hardship, may request court reduce the fine owed, set up of a payment plan, or consider community service in lieu of payment. May plead not guilty and request trial. If fail to resolve, may result in additional fines and referral to collection agency.		

# ADMINISTRATIVE ENFORCEMENT AGENCIES

	LA Metro	Muni
Rail system	Barrier System for Subway; and both Barrier and Non-Barrier System for Light Rail	Non-Barrier System for Streetcars and Cable Cars; Both Non-Barrier and Barrier System for Light Rail
Found without valid fare	Subject to administrative citation. Third or more fare violation subject to exclusion.	Subject to administrative citation. In practice, zero tolerance policy.
Administrative cite resolution	\$75, 5 hours of Community Service, Online Transit School to reduce fine to \$50 (may use only once a year), or Appeal/Hearing Officer within 21 days. Late Fees apply, 1 <sup>st</sup> missed deadline \$25, 2 <sup>nd</sup> missed deadline, an add. \$25 (up to \$125 total per cite).	\$130, \$20 for every hour of Community Service credit (6+hours), or Appeal/Hearing Officer, within 21 days. Late Fees apply, 1 <sup>st</sup> missed deadline \$38, 2 <sup>nd</sup> missed deadline add. \$53, and Collections Fee \$40 (up to \$261 total per cite).
Unresolved	Exclusion for extended period (30, 60 or 90 days)	Referred to collection agency



# HYBRID ENFORCEMENT AGENCIES

	BART	VTA	CALTRAIN
Rail system	Barrier system (fare gates); Heavy Rail	Non-barrier system; Light Rail	Non-barrier system (except for BART stations); Commuter Rail
Found without valid fare	Subject to administrative citation but if third or more fare violation or witnessed fare evasion subject to criminal citation. Zero tolerance policy.	Subject to civil summons citation or criminal citation.	Subject to administrative citation but if third or more fare violation subject to criminal citation or exclusion for 90 days*. Zero tolerance policy. <i>*Currently not implementing graduated penalties</i>
Administrative cite resolution	If administrative cite, \$75, 5 hours of Community Service, Online Transit School to reduce fine to \$50 (may use once yearly), or Appeal/Hearing Officer within 21 days. Late Fees apply, 1 <sup>st</sup> missed deadline \$25, 2 <sup>nd</sup> missed deadline, an add. \$25 (up to \$125 total per cite).	<i>Requested confirmation from VTA on how civil summons are resolved.</i>	If administrative cite, \$75, <i>pending confirmation of</i> hours of Community Service, or Appeal/Hearing Officer, within 21 days. Late Fees apply, 1 <sup>st</sup> missed deadline \$25 and Collections Fee \$30 (up to \$130 total per cite).
Unresolved admin. cite	If administrative cite, referral to collections agency		If administrative cite, referral to collections agency
Criminal cite resolution	If criminal cite, sent to court (process once submitted to court explained at previous slide)		

# ADDITIONAL RESEARCH REQUIRED IF CHANGE IN FARE ENFORCEMENT MODEL IS RECOMMENDED

1. Establish Proposed Scope of MTS Administrative Penalty Program
2. Identify Resources Needed and Costs to Implement
3. Other Impacts a Change in Enforcement Models May Create on MTS Operations

# ESTABLISH PROPOSED SCOPE OF MTS ADMINISTRATIVE PENALTY PROGRAM

1. Fine Amount to be imposed
2. Community Service Hours to be imposed in lieu of paying the Fine Amount
3. Should MTS Institute a Different Penalty Amount for Subsequent Violations
4. Should MTS impose Late Fees or Collection Fees for untimely or unpaid penalties
5. What should be the consequences of unresolved administrative citations (E.g., send citation order to collections, issue an exclusion order (how to enforce?))

# IDENTIFY RESOURCES NEEDED AND COSTS TO IMPLEMENT

## 1. Staff or third-party contract needs

- collecting fines
- reviewing community service completion
- scheduling appeal hearings
- designated hearing officers
- mailing correspondence to confirm citation resolved / unresolved
- application of late fees
- notice that referred to collections
- developing reports on administrative program generally etc.

## 2. Capital needs

- hearing location; new citation software and hardware; database tools, etc
- If we will issue graduated offenses and penalties, then new technology and equipment will be required to have that data in the field

## 3. Collections Vendor

# OTHER IMPACTS A CHANGE IN MODELS MAY CREATE TO OPERATIONS

*Will MTS and law enforcement partners still have probable cause to detain fare evaders and write them a citation for fare enforcement under administrative penalty program?*

- Probable cause to detain during citation process comes from criminal nature of violation
- No Probable Cause = no obligation for fare evader to cooperate with administrative citation process
  - Risk of unlawful detention claims
  - SDPD has informed MTS the lack of probable cause would require them to cease participating in Special Enforcement Details or future Joint Task Force efforts
  - Other Administrative Agencies confirmed this interpretation

# STAFF RECOMMENDATION

- That the Public Security Committee:
  - receive a report concerning California Transit Agency Fare Enforcement Models;
  - provide direction to staff on additional research to be conducted; and/or
  - provide a recommendation to the MTS Board of Directors regarding a potential change in fare enforcement models.



**Metropolitan  
Transit  
System**

## **Agenda Item No. 5**

MEETING OF THE SAN DIEGO METROPOLITAN TRANSIT SYSTEM  
PUBLIC SECURITY COMMITTEE (PSC)

September 20, 2024

**SUBJECT:**

Fare Enforcement Diversion Program Modifications (Karen Landers)

**RECOMMENDATION:**

That the PSC forward a recommendation to the Board of Directors to remove the option to purchase a one-way fare on-the-spot from the Fare Enforcement Diversion Program and make the revised program permanent.

Budget Impact

Current PRONTO system data analyses estimate that MTS lost between \$17 million and \$23 million in fare revenue between May 2022 and July 2024 as a result of fare evasion. The revenue impact has increased each year and is estimated at \$10 million to \$13 million for calendar year 2024. Removal of the on-the-spot one-way fare payment option is expected to reduce fare evasion and increase fare revenue collected by MTS.

**DISCUSSION:**

On June 11, 2020 (AI 31), the MTS Board of Directors authorized staff to implement a Fare Enforcement Diversion Program as a 12-month pilot project (Diversion Program). The Diversion Program pilot period was extended an additional 12-months (July 29, 2021 (AI 18)) through August 31, 2022. Staff has continued the Diversion Program pilot since then, until the Board takes action to either disband the pilot or approve a permanent diversion program.

Reports on the Diversion Program, fare evasion rates, and potential program modifications have been discussed with the Board, Public Security Committee, and the Security and Passenger Safety Community Advisory Group over the past two years. The revenue impact analysis that is discussed in this agenda item was presented to the Public Security Committee on June 7, 2024 as an informational item. On June 20, 2024 the recommendation in today's Proposed Action was presented to the MTS Board of Directors for consideration and the Board voted 13-0 to refer the item back to the PSC to make a recommendation on proposed changes to the Diversion Program.



## Key Features of the Diversion Program

Eligibility: All fare evasion violations are eligible, unless there was another violation (e.g., vandalism, assault, failure to comply) at the time of citation. No graduated offense levels with graduated penalties (e.g., first offense, second offense, etc.) are included because officers do not have the ability to efficiently check prior citation history while in the field.

### Current Options to Resolve:

1. Option to Immediately Purchase One-Way Fare in lieu of citation.
2. Pay Reduced Fine within 120 days: \$25
  - Pay In-Person at Transit Store
  - Pay by Mail
3. Complete Community Service within 120 days: 3 Hours
4. Limited Appeal within 15 days: Proof of Paid Fare or Malfunctioning Ticket Vending Machine
  - If appeal granted, then citation dismissed
  - If appeal denied, option to pay fine or complete community service within original 120-day window
5. No Action Taken within 120 days: Citation transmitted to San Diego Superior Court for adjudication

The MTS website for the Diversion Program can be found here: <https://www.sdmts.com/rider-info/mts-security/diversion-program>

## Proposed Program Modifications

Today's proposed action would be to forward a recommendation to the Board to modify the Diversion Program to eliminate Option 1 above (Option to Immediately Purchase One-Way Fare in lieu of citation).

Instead, all eligible fare evasion violations would receive a citation with the option to complete the Diversion Program within 120 days. To make the Diversion Program \$25 fine option more accessible and easier to pay, MTS would expand payment options to include payment by phone and online (in addition to the current Transit Store and payment by mail options).

## Basis for Staff Recommendation

Using data provided by the PRONTO fare system, an analysis was conducted to determine the fare evasion rate, its impact on MTS's ability to collect fare revenue, and determine potential causes. As discussed below, staff has concluded that the Diversion Program's on-the-spot fare payment option, *when combined with the PRONTO system's fare capping structure*, has created a loophole that increased MTS fare evasion on the trolley from 3% to over 30%. This equates to an estimated fare revenue loss of between \$17 million and \$23 million over the last 27 months and is on track to be a loss of \$10 million to \$13 million over the next year.



The Diversion Program was introduced in September 2020. MTS switched from the Compass Card fare payment system to the PRONTO fare payment system effective October 2021. Before the PRONTO fare payment system was implemented, the agency’s historical fare evasion rate hovered around 3%. However, beginning in 2022, after the PRONTO system had been implemented and data started being collected, the trolley fare evasion rate jumped to 22.47% and continued escalating. For 2024, the rate is at 32.48%<sup>1</sup>. The PRONTO data fare evasion rate is corroborated by similar fare evasion rates during Special Enforcement Details conducted in late 2023 (31.45% evasion rate) and 2024 (23.29% evasion rate).<sup>2</sup>

Fare Evasion Historical Rates					
Trolley Only					
Evasion Rate; Ridership; Fare Revenue; Average Fare					
	Evasion Rate	Trolley Ridership	Trolley Fare Revenue	average fare (trolley only)	Notes
2011	2.85%	32,748,843	\$34,942,546	\$ 1.07	
2012	2.80%	34,584,186	\$35,506,620	\$ 1.03	
2013	2.70%	38,355,687	\$37,474,995	\$ 0.98	
2014	3.30%	39,673,658	\$40,597,465	\$ 1.02	
2015	2.75%	40,706,441	\$42,060,857	\$ 1.03	
2016	3.28%	38,134,339	\$39,563,831	\$ 1.04	
2017	3.07%	37,308,350	\$38,787,894	\$ 1.04	
2018	2.83%	37,121,156	\$40,442,451	\$ 1.09	
2019	2.79%	38,030,108	\$43,262,793	\$ 1.14	Fare Changes Implemented Sept 2019
2020	2.82%	21,726,038	\$23,552,977	\$ 1.08	COVID-19 Mar 2020; Diversion Program Implemented Sept 2020
2021	2.87%	23,484,905	\$20,128,376	\$ 0.86	PRONTO introduced Oct 2021 after free ride Sept; MidCoast opened Nov 2021
2022	22.47%	34,008,769	\$28,699,168	\$ 0.84	YOP Program introduced May 2022 (SANDAG pays fare revenue for YOP)
2023	29.13%	<b>38,437,233</b>	<b>\$28,106,362</b>	<b>\$ 0.73</b>	Gained 4.4 million riders but generated \$592K less revenue than in 2022
YTD 2024	32.48%	23,142,805	\$17,864,377	\$ 0.77	Jan-July 2024 revenue & ridership data; Jan-Aug Evasion Rate
Annualized 2024	32.48%	39,673,380	\$30,624,647	\$ 0.77	

Fare evasion on MTS bus routes has remained around 3% for the same May 2022 to August 2024 that showed a substantial increase in fare evasion on the trolley.

To better understand why fare evasion is skyrocketing on the trolley, but not the bus, it is important to understand the following:

<sup>1</sup> The detailed PRONTO Inspection App and Validation App data for May 2022 to August 2024 is shown in Attachment A. The evasion rate for January to July 2024 is 32.43%.

<sup>2</sup> A Special Enforcement Detail (SED) is a security detail where officers check every passenger for a fare in a closed environment where passengers are not able to avoid inspection.

1. Barrier versus Barrier-Free Systems: on the bus, a passenger must tap their PRONTO card (i.e., pay their fare) as they board the bus. This is overseen by the bus operator who is seated next to the fare payment device. On the trolley, there is no fare payment turnstile or portal that must be tapped to enter the station or the vehicle. Instead, passengers are supposed to tap their PRONTO card or purchase a physical ticket at one of the validators/ticket vending machines installed throughout the station. Trolley passengers are only checked for their fare if they are encountered by an MTS officer. PRONTO and ridership data shows that only 3-6% of passengers are inspected for their fare each month. This means that over 94% of trolley passengers complete their ride without ever being asked to show proof of fare.<sup>3</sup>

2. Conversion from Pass Product Focus to Stored Value/Fare Capping: To understand why the PRONTO system turned the on-the-spot payment option into a loophole that encourages fare evasion, it is important to recall the differences in the old (Compass Card) and new (PRONTO) fare systems used by MTS.

a. *Compass Card Fare System (2009 to August 2021)*: encouraged purchase of pass products in advance of rides. Passengers only earned discounts if they bought a day pass (\$6) or a monthly pass (\$72) in advance. It was more expensive for frequent passengers to pay \$2.50 for every trip segment.

b. *PRONTO Fare System (October 2021 to present)*: does not require the purchase of a pass product to earn the day or monthly pass discount. Fare capping allows a passenger to pay \$2.50 per trip segment,<sup>4</sup> but to max out at the day pass or monthly pass rate. Since the implementation of PRONTO, pass product usage has decreased and use of stored value for the “pay as you go” fare capping method has increased. The “pay as you go” fare capping benefit achieves important equity goals that recognize not all individuals have the \$72 up front each month to purchase a monthly pass.

### **The PRONTO/On-the-Spot Payment Loophole**

Under the PRONTO system fare capping method, MTS only gets paid for each transit ride if the passenger taps their card on every trip segment. Tapping the card deducts the \$2.50 one-way fare<sup>5</sup> and then maxes out at the applicable maximum under the fare capping formula. If the passenger does not tap at every trip segment, then MTS does not get paid for that trip.<sup>6</sup>

When paired with the Diversion Program’s on-the-spot payment option, the data shows that more passengers are discovering a loophole: they can stay within MTS’s current rules and only pay their fare when/if they are approached by an MTS fare enforcement officer. If the fare inspection shows that the passenger has not paid their fare for that trip segment, the Diversion Program on-the-spot payment option allows them to simply pay at the time of inspection with no other consequence. If the worst consequence of being found without a fare upon inspection is

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<sup>3</sup> For example, in calendar year 2023, the PRONTO inspection percentage compared to trolley ridership estimates was 4.34%. 1.6 million passengers were inspected, while over 36 million passengers were not inspected.

<sup>4</sup> Passengers get a free transfer window of 2 hours for every one-way trip.

<sup>5</sup> Passengers with a Senior/Disabled/Medicare (SDM) PRONTO Card would pay \$1.25 for a one-way fare.

<sup>6</sup> Although a passenger may have “paid” MTS funds to deposit in their stored value PRONTO account, accounting principles do not allow MTS to recognize that revenue (for use to spend in an operating budget) until it has been used for a transit trip. Until then, it is required to be recognized on MTS’s balance sheet as a deposit held for a passenger’s future use.

that a passenger must buy that one-way fare, then there is no incentive for passengers to purchase a fare/tap before inspection.

Many passengers appear to have discovered that they can game the system by only paying the 3-6% of the time they are inspected, and not paying the other 94% of the time. Over 151,264 individual PRONTO accounts have taken advantage of the on-the-spot payment option over the May 2022 to August 2024 time period. However, 58,838 of those accounts have used that option more than once (and account for almost 92% of the fare evasion identified).

The monthly number of on-the-spot purchases/attempts has rapidly increased since May 2022:

<b>Monthly # of On-the-Spot Purchases or Attempts</b>	
Average May-Dec 2022	25,421
Average Jan-Dec 2023	37,873
Average Jan-Aug 2024	57,108

### **Staff Recommendation**

Based on the significant financial impact the rising fare evasion rate is having, especially as the agency is attempting to address its structural deficit, staff recommends closing the above loophole by eliminating the Diversion Program option to purchase a one-way fare on the spot during a fare enforcement stop. The rest of the Diversion Program would stay in place and offer fare evaders a non-court path to resolve the fare citation – by paying a significantly reduced fine or completing community service within a four-month period. The new program would be as follows:

1. Pay Reduced Fine within 120 days: \$25
  - Pay In-Person at Transit Store
  - Pay by Mail
  - *Pay by Phone (new option)*
  - *Pay Online (new option)*
2. Complete Community Service within 120 days: 3 Hours
3. Limited Appeal within 15 days: Proof of Paid Fare or Malfunctioning Ticket Vending Machine
  - If appeal granted, then citation dismissed
  - If appeal denied, option to pay fine or complete community service within original 120-day window
4. No Action Taken within 120 days: Citation transmitted to San Diego Superior Court for adjudication<sup>7</sup>

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<sup>7</sup> MTS staff also works with individuals who contact MTS after the 120 day deadline, but before a court hearing, to seek dismissal of a citation if diversion is completed before the court hearing date. For cases that have already been adjudicated by the court, and are therefore outside of MTS's jurisdiction, MTS works with a liaison at the Public Defender's Office/Homeless Court program (<https://www.homelesscourtprogram.org>) to connect the individual with resources that may provide post-conviction relief.

/S/ Sharon Cooney

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Sharon Cooney  
Chief Executive Officer

Key Staff Contact: Julia Tuer, 619.557.4515, [Julia.Tuer@sdmts.com](mailto:Julia.Tuer@sdmts.com)

Attachment:

A. PRONTO DATA ANALYSIS – Inspection and Validation App May 2022 to August 2024

	Average Fare (Systemwide)	Trolley Ridership	% of Ridership Inspected	Total Inspections App Total	Total Valid Fare (Properly Tapped) Inspection App Total Ok	% Total Valid Fare Inspection App Total Relative %	Total Valid Fare - Pass Products Inspection App Total Ok minus SV ok	% Total Valid Fare - Pass Products Inspection App Total Ok minus SV ok %	Total Stored Value - Valid Fare Inspection App Ok - Stored Value	% Total Stored Value - Valid Fare Inspection App - Ok SV Relative %	Total - NO VALID FARE Inspection App No Ticket Total	% Total - NO VALID FARE Inspection App - Relative % No Ticket	Total - NO VALID FARE STORED VALUE Inspection App - No Ticket SV	% Total - NO VALID FARE STORED VALUE Inspection App - No Ticket SV Relative %	Total - STORED VALUE PAYMENT ON- THE-SPOT Validation App - Ok - Stored Value
May 2022	\$ 0.99	3,008,486	1.61%	48,326	32,469	67.19%	15,380	31.83%	17,089	35.36%	14,563	30.13%	10,082	20.86%	14,333
June 2022	\$ 1.10	2,762,477	2.49%	68,683	46,772	68.10%	20,454	29.78%	26,318	38.32%	20,061	29.21%	14,462	21.06%	20,171
July 2022	\$ 1.07	2,842,092	2.28%	64,783	44,197	68.22%	18,479	28.52%	25,718	39.70%	18,846	29.09%	14,082	21.74%	21,241
August 2022	\$ 0.97	2,977,044	2.25%	66,835	45,504	68.08%	18,167	27.18%	27,337	40.90%	19,634	29.38%	14,975	22.41%	18,599
September 2022	\$ 0.90	3,030,847	2.94%	89,161	60,118	67.43%	25,165	28.22%	34,953	39.20%	26,825	30.09%	20,540	23.04%	21,725
October 2022	\$ 0.94	3,252,261	2.67%	86,926	59,474	68.42%	25,814	29.70%	33,660	38.72%	25,430	29.25%	19,566	22.51%	19,968
November 2022	\$ 1.00	2,923,866	4.93%	144,007	98,648	68.50%	43,665	30.32%	54,983	38.18%	42,318	29.39%	33,260	23.10%	34,381
December 2022	\$ 1.06	2,760,489	4.46%	123,252	80,947	65.68%	33,182	26.92%	47,765	38.75%	39,267	31.86%	30,874	25.05%	21,458
January 2023	\$ 0.97	2,879,854	4.86%	140,053	93,677	66.89%	42,823	30.58%	50,854	36.31%	43,381	30.97%	34,565	24.68%	26,681
February 2023	\$ 0.99	2,813,615	4.33%	121,823	79,449	65.22%	36,931	30.32%	42,518	34.90%	39,631	32.53%	31,029	25.47%	25,523
March 2023	\$ 0.96	3,114,372	4.64%	144,566	94,078	65.08%	41,871	28.96%	52,207	36.11%	47,472	32.84%	36,860	25.50%	32,638
April 2023	\$ 0.97	3,146,989	5.17%	162,719	104,886	64.46%	45,597	28.02%	59,289	36.44%	55,349	34.02%	44,010	27.05%	34,302
May 2023	\$ 0.98	3,226,094	4.67%	150,703	91,572	60.76%	37,112	24.63%	54,460	36.14%	56,950	37.79%	43,977	29.18%	28,597
June 2023	\$ 1.05	3,078,785	4.50%	138,600	79,389	57.28%	27,522	19.86%	51,867	37.42%	56,796	40.98%	43,297	31.24%	32,194
July 2023	\$ 1.06	3,112,738	4.61%	143,639	87,442	60.88%	30,475	21.22%	56,967	39.66%	53,946	37.56%	42,707	29.73%	32,204
August 2023	\$ 0.96	3,277,448	4.48%	146,714	86,117	58.70%	30,412	20.73%	55,705	37.97%	58,477	39.86%	46,627	31.78%	37,330
September 2023	\$ 1.02	3,174,762	4.64%	147,152	85,137	57.86%	30,347	20.62%	54,790	37.23%	59,982	40.76%	47,365	32.19%	30,958
October 2023	\$ 0.88	3,484,453	3.68%	128,084	71,688	55.97%	27,907	21.79%	43,781	34.18%	54,343	42.43%	39,627	30.94%	35,317
November 2023	\$ 0.88	3,627,617	3.75%	136,045	76,264	56.06%	29,672	21.81%	46,592	34.25%	57,709	42.42%	41,325	30.38%	42,053
December 2023	\$ 0.96	3,500,506	3.04%	106,517	59,959	56.29%	22,156	20.80%	37,803	35.49%	45,055	42.30%	33,420	31.38%	32,463
January 2024	\$ 0.94	3,081,191	3.36%	103,598	57,603	55.60%	22,438	21.66%	35,165	33.94%	44,310	42.77%	33,017	31.87%	36,286
February 2024	\$ 0.92	3,078,361	3.55%	109,270	58,325	53.38%	23,768	21.75%	34,557	31.63%	49,037	44.88%	35,316	32.32%	42,988
March 2024	\$ 0.95	3,273,513	3.93%	128,512	69,651	54.20%	25,889	20.15%	43,762	34.05%	56,685	44.11%	42,121	32.78%	44,945
April 2024	\$ 0.95	3,360,772	3.87%	130,069	70,557	54.25%	27,036	20.79%	43,521	33.46%	57,507	44.21%	42,013	32.30%	45,370
May 2024	\$ 0.95	3,456,549	3.60%	124,526	67,348	54.08%	24,469	19.65%	42,879	34.43%	55,162	44.30%	41,614	33.42%	43,550
June 2024	\$ 1.05	3,220,545	3.64%	117,321	65,692	55.99%	23,027	19.63%	42,665	36.37%	49,771	42.42%	38,940	33.19%	44,267
July 2024	\$ 1.00	3,671,874	5.71%	209,777	124,878	59.53%	42,212	20.12%	82,666	39.41%	82,302	39.23%	65,246	31.10%	68,760
August 2024	\$ 1.00	3,593,072	5.89%	211,618	122,715	57.99%	36,112	17.06%	86,603	40.92%	86,097	40.69%	69,611	32.89%	73,423
Average May-Dec 2022	\$ 1.00	2,944,695	2.95%	86,497	58,516	67.70%	25,038	29.06%	33,478	38.64%	25,868	29.80%	19,730	22.47%	21,485
Average Jan-Dec 2023	\$ 0.97	3,203,103	4.36%	138,885	84,138	60.45%	33,569	24.11%	50,569	36.34%	52,424	37.87%	40,401	29.13%	32,522
Average Jan-Aug 2024	\$ 0.94	3,341,985	4.19%	141,836	79,596	55.63%	28,119	20.10%	51,477	35.53%	60,109	42.83%	45,985	32.48%	49,949
Total May 2022- Aug 2024	\$ 0.98	88,730,672		3,493,279	2,114,556		828,082		1,286,474		1,316,906		1,010,528		961,725
TOTAL 2023				1,666,615									May 22-Aug24 Jan-Jul24	28.18% 32.43%	
Average May-Dec 2022															25,421
Average Jan-Dec 2023															37,873
Average Jan-Aug 2024															57,108

	<b>% Total - STORED VALUE PAYMENT ON-THE-SPOT</b> <small>Validation App - Ok SV / Total Inspections</small>	<b>% Total - STORED VALUE PAYMENT ON-THE-SPOT</b> <small>Validation App - Ok SV Relative %</small>	<b>Total - STORED VALUE FUNDS ON-THE-SPOT</b> <small>Validation App - Err Insuff Credit SV</small>	<b>% Total - STORED VALUE FUNDS ON-THE-SPOT</b> <small>Validation App - ErrInsCr SV / Total Inspections</small>	<b>% Total - STORED VALUE FUNDS ON-THE-SPOT</b> <small>Validation App - ErrInsCr SV Relative %</small>	<b>Total - Validation App</b>	<b>Total - Validation App (Ok)</b>	<b>Validation App Non-Stored Value</b>	<b>% Validation App Non-Stored Value</b>	<b>\$ Value of Fare Evasion - Stored Value</b> <small>(Validation App Ok SV * Avg Fare)</small>	<b>Fare Revenue Impact of Fare Evasion</b> <small>(value column X * (100/insp ratio))</small>
May 2022	29.66%	52.37%	3,156	6.53%	11.53%	27,367	22,613	9,878	36.09%	\$ 14,209	\$ 884,550
June 2022	29.37%	55.21%	4,122	6.00%	11.28%	36,534	30,617	12,241	33.51%	\$ 22,147	\$ 890,784
July 2022	32.79%	57.36%	3,956	6.11%	10.68%	37,028	23,270	11,831	31.95%	\$ 22,696	\$ 995,711
August 2022	27.83%	59.51%	3,602	5.39%	11.53%	31,251	26,205	9,050	28.96%	\$ 18,089	\$ 805,725
September 2022	24.37%	60.72%	3,865	4.33%	10.80%	35,779	30,418	10,189	28.48%	\$ 19,516	\$ 663,395
October 2022	22.97%	59.62%	3,979	4.58%	11.88%	33,494	28,009	9,547	28.50%	\$ 18,742	\$ 701,225
November 2022	23.87%	84.01%	4,661	3.24%	11.39%	40,925	34,381	1,883	4.60%	\$ 34,427	\$ 698,996
December 2022	17.41%	57.96%	4,152	3.37%	11.21%	37,022	31,081	11,412	30.82%	\$ 22,775	\$ 510,085
January 2023	19.05%	57.52%	5,067	3.62%	10.92%	46,382	39,390	14,634	31.55%	\$ 25,879	\$ 532,144
February 2023	20.95%	56.95%	4,444	3.65%	9.92%	44,818	38,779	14,851	33.14%	\$ 25,237	\$ 582,883
March 2023	22.58%	59.00%	5,411	3.74%	9.78%	55,321	47,846	17,272	31.22%	\$ 31,392	\$ 676,271
April 2023	21.08%	59.10%	5,238	3.22%	9.03%	58,038	50,861	18,498	31.87%	\$ 33,209	\$ 642,258
May 2023	18.98%	56.75%	4,941	3.28%	9.81%	50,389	43,738	16,851	33.44%	\$ 28,077	\$ 601,052
June 2023	23.23%	59.12%	5,384	3.88%	9.89%	54,457	47,219	16,879	31.00%	\$ 33,843	\$ 751,767
July 2023	22.42%	57.86%	6,117	4.26%	10.99%	55,657	47,357	17,336	31.15%	\$ 34,260	\$ 742,439
August 2023	25.44%	58.78%	6,204	4.23%	9.77%	63,510	55,226	19,976	31.45%	\$ 35,752	\$ 798,671
September 2023	21.04%	60.24%	4,789	3.25%	9.32%	51,393	45,117	15,646	30.44%	\$ 31,705	\$ 684,019
October 2023	27.57%	53.07%	5,235	4.09%	7.87%	66,551	59,404	25,999	39.07%	\$ 30,955	\$ 842,109
November 2023	30.91%	58.62%	6,218	4.57%	8.67%	71,741	63,248	23,470	32.71%	\$ 37,061	\$ 988,213
December 2023	30.48%	60.45%	5,165	4.85%	9.62%	53,699	46,829	16,071	29.93%	\$ 31,111	\$ 1,022,406
January 2024	35.03%	60.84%	5,664	5.47%	9.50%	59,646	52,023	17,696	29.67%	\$ 34,235	\$ 1,018,209
February 2024	39.34%	60.12%	6,168	5.64%	8.63%	71,503	63,012	22,347	31.25%	\$ 39,584	\$ 1,115,176
March 2024	34.97%	61.35%	6,525	5.08%	8.91%	73,261	64,295	21,791	29.74%	\$ 42,578	\$ 1,084,562
April 2024	34.88%	59.94%	6,495	4.99%	8.58%	75,694	66,651	23,829	31.48%	\$ 43,102	\$ 1,113,673
May 2024	34.97%	61.34%	6,394	5.13%	9.01%	71,003	62,340	21,059	29.66%	\$ 41,373	\$ 1,148,403
June 2024	37.73%	61.36%	6,177	5.27%	8.56%	72,148	63,764	21,704	30.08%	\$ 46,480	\$ 1,275,919
July 2024	32.78%	62.82%	9,994	4.76%	9.13%	109,461	96,536	30,707	28.05%	\$ 68,760	\$ 1,203,555
August 2024	34.70%	64.05%	9,861	4.66%	8.60%	114,632	101,374	31,348	27.35%	\$ -	\$ -
<b>Average May-Dec 2022</b>	26.03%	60.85%	3,937	4.94%	11.29%	34,925	28,324	9,504	27.86%	\$ 21,575	\$ 730,688
<b>Average Jan-Dec 2023</b>	23.64%	58.12%	5,351	3.89%	9.63%	55,996	48,751	18,124	32.25%	\$ 31,540	\$ 722,654
<b>Average Jan-Aug 2024</b>	35.55%	61.48%	7,160	5.13%	8.86%	80,919	71,249	23,810	29.66%	\$ 39,514	\$ 994,937
<b>Total May 2022- Aug 2024</b>			152,984			1,598,704	1,057,589	379,177		\$ 710,580	\$ 19,346,323
<b>TOTAL 2023</b>											

Average May-Dec 2022
Average Jan-Dec 2023
Average Jan-Aug 2024



Metropolitan  
Transit  
System

Item 5, 09/20/2024

# Fare Enforcement Diversion Program Modifications

MTS Public Security Committee



# Fare Enforcement Diversion Program Pilot

Approved by MTS Board on June 11, 2020 for September 1, 2020 implementation; extended 12 months on July 29, 2021; *expired August 31, 2022; pilot continued indefinitely January 26, 2023*

- Eligibility: all fare evasion violations unless another violation was also cited (e.g., vandalism, assault, failure to comply)
- Current Options to Resolve:
  1. Immediately purchase fare (\$2.50 one-way) at ticket vending machine or on PRONTO Validation App.
  2. Receive MTS Citation:
    - a. Pay \$25 fine within 120 days;
    - b. 3 hours of community service within 120 days;
    - c. Appeal to MTS within 15 days; or
    - d. After 120 days: citation sent to court; may appear in court to respond



# MTS Policy Goals

Ridership/Financial Impact of Fare Evasion: Reduction in fare revenues could result in significant budget deficit requiring service cuts or raising fares

→ MTS facing a structural budget deficit of over \$78M each year (escalating to \$95M in FY 2029)

## Goals of Diversion Program:

- Keep in place an incentive for riders to pay their transit fare (in advance)
  - DO NOT want to increase number of riders who “risk it” and ride without a fare
- Provide a non-criminal path for resolving citation
- More equitably and proportionally align the penalty with the actual violation

# MTS's Civil Justice Goal

Provide a non-criminal path for individuals to resolve a fare citation, with penalty more aligned with violation.

- 4-month period to resolve BEFORE sent to court
- Significantly reduced fine (\$25) compared to fine/fees imposed by court (\$192+)
- Community service option for individuals without means to pay reduced fine (less than court-imposed hours)
- Expedited, informal appeal process for a citation with a factual defense
- MTS Staff also works with participants on individualized plans where appropriate

# **Fare Evasion Data & Financial Impact Analysis**

# What is the Fare Evasion Rate?

*The Fare Evasion Rate tells MTS what percentage of MTS passengers are riding without paying their fare.*

- Compass Card Fare System (2009 to August 2021): encouraged purchase of pass in advance of rides → Day Pass (\$6 per day) or Monthly (\$72 per month)
  - More expensive for frequent riders to pay \$2.50 for every trip segment
- PRONTO Fare System (October 2021 to present): does not require pass purchase to earn day pass or monthly pass discount – “fare capping” allows rider to pay \$2.50 per trip segment, but to max out at the day pass or monthly pass rate

# How to Determine Fare Evasion Rates

- Special Enforcement Details (SED) (trolley)\*: security detail where officers check every passenger for a fare – closed environment = no ability to avoid inspection.
- Rider Enforcement Details (RED) (trolley): security detail where passengers are checked en masse, but not a closed environment.
- Statistics from Security Dept officers: manual statistics regarding inspections, citations, refuse to cooperate, on-the-spot payments at Ticket Vending Machines (Weekly Safety Security Report does not include PRONTO App data)
- PRONTO Inspection & Validation App data (trolley only)\*: statistics on every PRONTO account checked for a fare, whether it was valid, and whether they purchased an on-the-spot fare (or had insufficient funds to do so).
- SANDAG Ride Check Surveys: individual passenger surveys conducted where they are asked what type of fare they purchased (e.g., day pass, monthly pass, stored value); passengers self-report “no fare”; no verification of self-reported data

\*indicates most reliable data

# Fare Evasion Rates – PRONTO Data

*Stored Value Evasion Rate INCREASING*

*Pass Product Use DECREASING*

*3-6% of passengers inspected monthly (over 94% go unchecked)*

*\*for same period, fare evasion on bus is ~3%*

## PRONTO DATA

May - Dec 2022

2023

Jan-Aug 2024

Result of Fare Inspection - Individuals with PRONTO Cards	Percentage of All Inspections	Percentage of All Inspections	Percentage of All Inspections
<b>Valid Fare</b> (i.e. valid fare and it was tapped prior to using MTS service)	67.70%	60.45%	55.63%
<b>Valid Fare - Pass Products</b> (i.e. day pass, juror pass, college pass, SDM Regional Monthly Pass, Adult Regional Monthly Pass, etc)	29.06%	24.11%	20.10%
<b>Valid Fare - Stored Value</b> (i.e., PRONTO customers using Stored Value/Best Fare system)	38.64%	36.34%	35.53%
<b>No Valid Fare - All</b> (i.e. no funds on card or pass product loaded but not tapped prior to boarding)	29.80%	37.87%	42.83%
<b>No Valid Fare - Stored Value</b> (i.e. no stored value OR stored value but pass was not tapped prior to boarding and thus MTS has not received payment)	22.47%	29.13%	32.48%

# Concerning Trends

- passengers gained 2022-2023: **4,428,464**

→ *Ridership Recovery Plan is Working*

- fare revenue loss 2022-2023 **\$(592,806)**

→ *But more passengers are not paying*

- Value of those passengers at 2022 rate: **\$3.7 million**

= net loss of \$4.3M

→ **2024 on pace for similar average fare**

→ **1.6 million MORE passengers than 2019, but \$12.6 million less fare revenue**

→ **= 2014 ridership, but \$10 million less fare revenue**

Fare Evasion Historical Rates					
Trolley Only					
Evasion Rate; Ridership; Fare Revenue; Average Fare					
	Evasion Rate	Trolley Ridership	Trolley Fare Revenue	average fare (trolley only)	Notes
2011	2.85%	32,748,843	\$34,942,546	\$ 1.07	
2012	2.80%	34,584,186	\$35,506,620	\$ 1.03	
2013	2.70%	38,355,687	\$37,474,995	\$ 0.98	
2014	3.30%	39,673,658	\$40,597,465	\$ 1.02	
2015	2.75%	40,706,441	\$42,060,857	\$ 1.03	
2016	3.28%	38,134,339	\$39,563,831	\$ 1.04	
2017	3.07%	37,308,350	\$38,787,894	\$ 1.04	
2018	2.83%	37,121,156	\$40,442,451	\$ 1.09	
2019	2.79%	38,030,108	\$43,262,793	\$ 1.14	Fare Changes Implemented Sept 2019
2020	2.82%	21,726,038	\$23,552,977	\$ 1.08	COVID-19 Mar 2020; Diversion Program Implemented Sept 2020
2021	2.87%	23,484,905	\$20,128,376	\$ 0.86	PRONTO introduced Oct 2021 after free ride Sept; MidCoast opened Nov 2021
2022	22.47%	34,008,769	\$28,699,168	\$ 0.84	YOP Program introduced May 2022 (SANDAG pays fare revenue for YOP)
2023	29.13%	<b>38,437,233</b>	<b>\$28,106,362</b>	<b>\$ 0.73</b>	Gained 4.4 million riders but generated \$592K less revenue than in 2022
YTD 2024	32.48%	23,142,805	\$17,864,377	\$ 0.77	Jan-July 2024 revenue & ridership data; Jan-Aug Evasion Rate
Annualized 2024	32.48%	39,673,380	\$30,624,647	\$ 0.77	



<b>Evasion Rates &amp; Revenue Loss Estimates</b>	<b>May 22 - Dec 22</b>	<b>2023</b>	<b>Jan 24 - July/Aug 24</b>	<b>Total or Avg May 22 - July/Aug 24</b>	<b>Annualized 2024</b>
Security Enforcement Details - Fare Evasion Rate (thru Aug 24)	n/a	31.45%	23.29%	26.67%	23.29%
Stored Value Customer Fare Evasion Rate <i>(PRONTO App Data thru Aug 24)</i>	22.47%	29.13%	32.48%	28.18%	32.48%
Estimated Revenue Loss <i>(based on SV Customer Evasion Rate * Trolley Fare Revenue)</i> thru July 24	\$ 4,401,727	\$ 6,678,740	\$6,357,505	\$17,437,972	\$ 10,898,579
Estimated Revenue Loss <i>(based on PRONTO On-the-Spot Payments * Average Fare *inspection ratio)</i> thru July 24	\$ 6,150,471	\$ 8,864,232	\$7,959,497	\$22,974,200	\$ 13,644,851



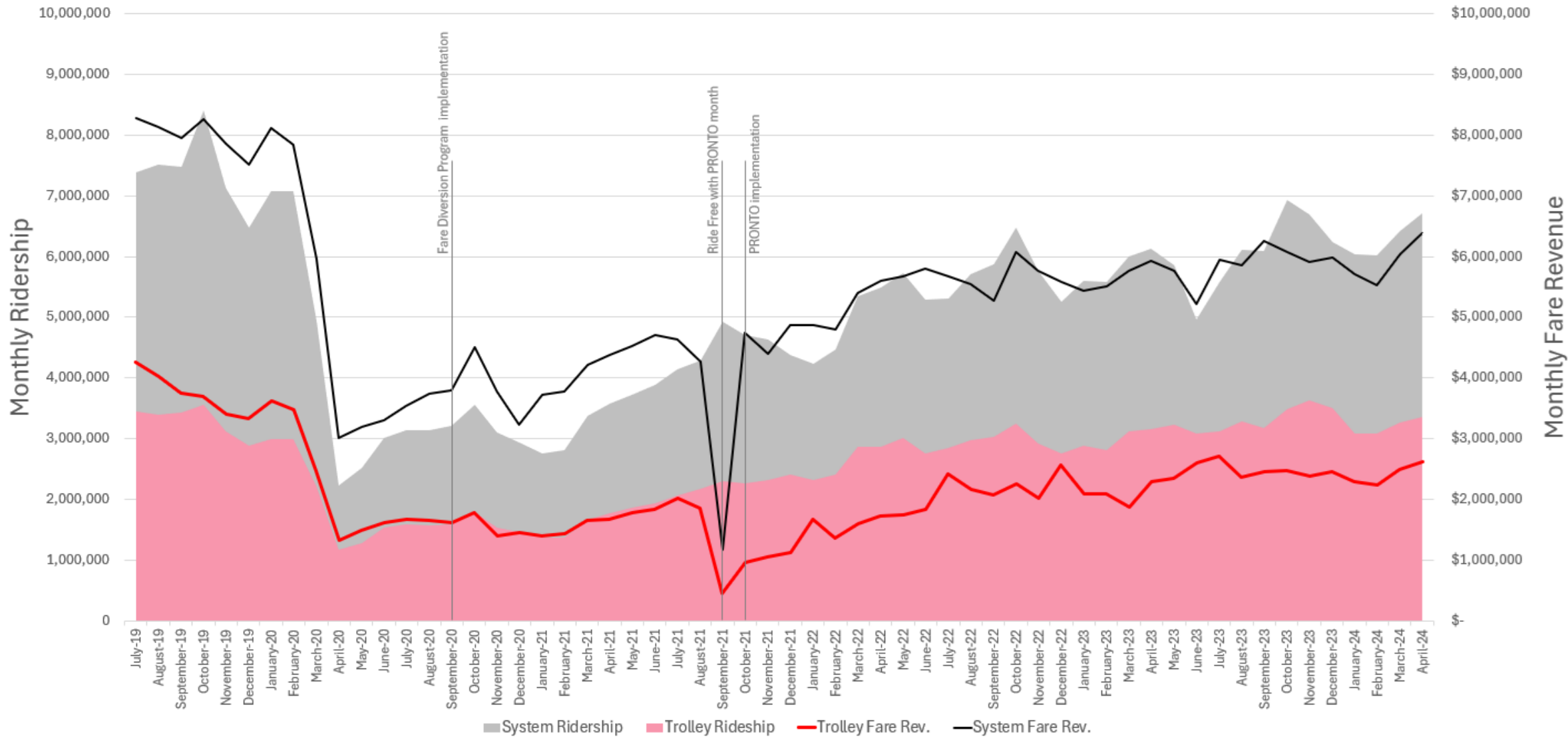
# Individual PRONTO Card Analysis

39% of Passengers who used Buy-on-the-Spot option account for almost 92% of Fare Evasion

= 58,838 PRONTO accounts engaging in fare evasion on a regular basis (*gaming the system because of PRONTO/Buy-on-the-Spot loophole*)

# of Validation App transactions on individual PRONTO cards (virtual and physical cards) May 2022 to August 2024			# of Buy-on-the-Spot Transactions	% of Fare Evasion
1	92,426	61.10%	92,426	8.29%
2-5	43,987	29.08%	1,022,283	91.71%
6-10	9,489	6.27%		
11-20	3,786	2.50%		
21-40	1,283	0.85%		
41-50	137	0.09%		
51+	156	0.10%		
TOTAL # PRONTO Accts	151,264	100.00%	1,114,709	100.00%
More than one Buy-on-the-Spot	58,838	38.90%	1,022,283	91.71%

Monthly Ridership & Fare Revenue



# What does DATA tell Us?

- Buy-on-the-Spot Option, *when paired with the new PRONTO fare capping system*, created a loophole that encourages fare evasion.
  - Only purchase fare (i.e., tap PRONTO card which deducts Stored Value for that trip segment) if inspected by MTS officer
  - Only 3-6% of passengers are inspected → so MTS is not receiving the “Buy-on-the-Spot” fare payment from 94%+ of these riders
- Since Buy-on-the-Spot Option is technically part of our fare rules, passengers do not consider this to be “evasion” or breaking the rules.
  - No incentive to change behavior
  - Use of this loophole has only increased as more passengers understand how the PRONTO system and MTS fare enforcement works

# Prior Meetings/Presentations

- MTS Board
  - January 26, 2023
- MTS Public Security Committee
  - March 29, 2024
  - June 7, 2024
- Community Advisory Committee
  - June 11, 2024
- MTS Board of Directors
  - June 20, 2024 (referred back to PSC for recommendation before returning to Board)

# Staff Recommendation:

That the Public Security Committee Forward a Recommendation to the MTS Board of Directors to:

- 1) Remove On-the-Spot Payment Option from Diversion Program
- 2) Implement online and phone payment options to make paying \$25 fine easier (currently only allows payment by check via mail or in person at the Transit Store)  
→ *Consistent with similar parking/traffic ticket options*