

November 14, 2016

United State Department of Transportation (DOT)
Attn: Yvette Rivera, Associate Director
Departmental Office of Civil Rights
Office of the Secretary
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

United States Department of Justice (DOJ)
Civil Rights Division
Attn: Federal Coordination and Compliance Section
950 Pennsylvania Ave, NW
Washington, D.C. 20530

Re: Civil Rights Complaint Against the Los Angeles Metropolitan Transportation Authority, the Los Angeles County Sheriff's Department and all employed and contracted police, for Racial Discrimination and a Pattern and Practice of Systemic Criminalization Against Black Transit Riders

To the U.S. Department of Justice & U.S. Department of Transportation:

On behalf of the Labor/Community Strategy Center (hereinafter 'Strategy Center' or 'LCSC'), our member base, and Black transit riders throughout Los Angeles City and County, we submit that the Los Angeles County Metropolitan Transportation Authority (hereinafter 'LA MTA' and 'MTA') and its employed and contracted police and civilian fare checkers, including but not limited to the Los Angeles County Sheriff's Department (hereinafter 'Sheriff' and 'LASD'), the MTA police, and any and all civilian officers, are in violation of Title VI of the Civil Rights Act of 1964, the Equal Protection Clause of the 14th Amendment to the United States Constitution and all relevant state and federal laws protecting against police brutality and intentional and disparate impact racial discrimination by demonstrating a pattern and practice of criminalization, 'stop and frisk'¹ fare enforcement and other 'quality of life'² citations and arrests on public transportation that systemically and egregiously target Black riders.

¹ LA MTA CEO Philip A. Washington publicly acknowledged that the data is evidence that 'stop and frisk,' has been implemented on the MTA system for several years. See Brooks, B. Metro CEO Phil Washington Vows to Correct Unfair Stop & Frisk Practices (2016, July 20). *The Sentinel*. Available at <https://lasentinel.net/metro-ceo-phil-washington-vows-to-correct-unfair-stop-frisk-practices.html>.

² 'Quality of life' references the category defined by MTA for citations sent to Transit Court. See Metro Transit Court Report for 2012 and 2013, Prepared by the Los Angeles County Metropolitan Transit Authority and Submitted to the Senate Committee on Transportation and Housing and Assembly Committee on Transportation, pg. 6.

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LA MTA is ticketing and arresting its passengers, despite a \$5.6 billion budget with over \$2.2 billion from sales tax revenues,³ much of which is from low-income riders, and systematically targeting Black riders who each year represent at least 50% of MTA citations and 58% of Sheriff arrests on the MTA System,⁴ while they are only a reported 17% of bus and 19% of rail ridership.⁵ (See Strategy Center Data Summary, Attached herein as **Exhibit 1**). By contrast, white riders are an estimated 8% of MTA's bus and 13% of rail ridership and they were 11% of the total citations in 2014 and 2015.

This is a severe harm of great proportion that invokes an immediate sense of urgency for DOJ oversight and accountability on LA MTA and the LA County Sheriff to remedy a pattern and practice of racial discrimination.

The criminalization of Black transit riders through highly discretionary fare enforcement, police detainments, citations and arrests on MTA buses and trains, is discriminatory in its own right. However, we also contend there is a case for intentional discrimination that is demonstrated by the extreme disproportionality in citations and arrests and the manner in which policing fare enforcement has taken shape, in concert with a series of pro-gentrification policies and practices that demonstrate a flagrant disregard for the civil rights implications for the Black community in Los Angeles, and especially the poorest and most transit dependent Black residents.

MTA is furthermore a repeated bad actor. (For more details see Complaint Section III A History of LA and MTA's Anti-Black Policies and the Irreparable Harm to the Black Community; see also Bus Riders Union, Labor/Community Strategy Center et. al. Complaint under Title VI of the Civil Rights Act of 1964, Executive Order 12898, and Federal Transit Circular 4702.1A, Attached herein as **Exhibit 2**).

MTA has demonstrated a persistent disregard for the civil rights implications of multiple major decisions that have fundamentally altered access and affordability of the public transit system, even though it overwhelmingly serves a majority low-income, Black and Brown clientele. MTA has also continued to contract with the LA County Sheriffs Department whose record of civil rights violations is documented, on the MTA system⁶ and in the broader community and County jail system.⁷ MTA is furthermore considering replacing the Sheriff's Department with the Los Angeles Police Department (LAPD) whose long and notorious record of civil rights violations is undisputed.

³ In fiscal year 2015 and 2016, LA MTA received a combined sales tax revenue that exceeded \$2.2 billion from California's Proposition A and C and Los Angeles' Measure R.

⁴ Data on citations and arrests was obtained through several LCSC public records requests to the LA MTA.

⁵ Ridership percentage by race is based on LA MTA reported survey results from 2015.

Available at <http://thesource.metro.net/2015/08/05/results-of-metros-latest-customer-survey/>.

⁶ See, i.e., Newton D. LASD Continues Campaign of Intimidation Against Metro Customers. *StreetsBlogLA* (2013, Feb. 15).

⁷ See, i.e., Settlement Agreement, United States Department of Justice v. the County of Los Angeles and the Los Angeles County Sheriff's Department No. CV- 15-03174; see also Full Coverage: LA County Jail System Under Scrutiny. *Los Angeles Times* (2016 series of LA Times stories tracking Sheriff misconduct and brutality in the Los Angeles County jail system).

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MTA has refused to remedy racially discriminatory practices, including ‘stop and frisk’ fare checks and the extreme disproportionality of citations and arrests to Black riders. Lastly, we contend that this pattern and practice of racial discrimination and civil rights violations has transpired in connection with other City and County governmental agencies that have an explicit vested interest in a gentrified reshaping of Los Angeles, of which the culminating result is a mass push-out of the Black community from highly desirable and densely populated land in Central and South LA.

We therefore call on the DOT and the DOJ to acknowledge and require immediate remedial action for a pattern and practice of intentional and disparate impact racial discrimination and civil rights violations by the LA MTA, and its employed and contracted police including but not limited to the LASD, for the foregoing reasons:

1. The extreme disproportionality of citations and arrests of Black transit riders is evidence of a pattern and practice of systemic criminalization and intentional and disparate impact racial discrimination;
2. The pattern and practice of systemic criminalization against Black transit riders violates equal protection, equal access and opportunity to public transportation; and
3. The denial of equal protection on public transportation has further racially discriminatory implications for Black residents, including barriers to equitable access and opportunities for public goods and services.

For the aforementioned reasons, and all those discussed in detail throughout this complaint, we seek the following remedies:

- 1) An end to ‘stop and frisk’ discretionary fare enforcement and harassment of Black passengers;**
- 2) An immediate end to all fare collection on MTA trains and buses;**
- 3) Withdrawal of all fare collection staff, officers, police (armed and un-armed) from MTA trains and buses;**
- 4) A thorough and public accounting of all police fare checks, detainments, searches, use of force, citations, and arrests on the MTA system that is disaggregated by race, gender, race within gender, age, location, criminal and/or Transit Court outcomes, and underlying criminal and/or administrative violation;**
- 5) Policies of reparation, repair, and compensation to Black riders, including but not limited to granting amnesty for all outstanding citations issued on MTA buses and trains, clearing arrest records, and closure of the MTA Transit Court;**
- 6) Freezing of all federal funds to the MTA pending successful implementation of remedial action; and**

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7) Creating a federally enforced civil rights structure of oversight of all MTA policies that includes the Labor/Community Strategy Center as a recognized class representative as it was in the federal Consent Decree from 1996-2006.

I. Introduction

This complaint is brought against the Los Angeles Metropolitan Transportation Authority and its employed and contracted police, including but not limited to the Los Angeles Sheriff's Department, by the Labor/Community Strategy Center. The Strategy Center is a not-for-profit community-based, Black and Latino movement organization operating in L.A. City (4 million people), L.A. County (10 million people), California (39 million people) and throughout the U.S. through our close allies in every major urban center.

The Strategy Center and the Bus Riders Union have been working in Black and Latino communities in Los Angeles since 1981. We began as our Director, Eric Mann, an autoworker at the General Motors Southgate and then Van Nuys Plant, organized the United Auto Worker's (UAW) Campaign to 'Keep General Motors (GM) Van Nuys Open' — charging GM in the court of public opinion with closing down plants with large Black and Latino workers and thereby jeopardizing the viability of those communities. This took place during the 'De-industrialization of America,' that in L.A. caused the GM Southgate, Ford Pico Rivera, Goodyear and Firestone Rubber, and U.S. Steel plant closings and destroyed the core of the well-paid Black, unionized working class. Through the work of the Labor/Community Coalition to Keep GM Van Nuys Open we were able to protect the jobs of Black and Latino autoworkers for an additional 10 years after GM had initially announced its plans to close the plant. Today, there are virtually no Black unionized industrial workers in all of South Central and L.A. City.

Since 1989 we have expanded our organizing in South Los Angeles - the Harlem of Los Angeles and the West Coast. It's once large and vibrant Black community, like Black communities all over the U.S., is declining in size and influence--and is under occupation and siege. In 1970, as one benchmark, the Black population of Los Angeles was 763,000. Today it is estimated at just over 365,000.⁸ At its height, the Black population of South Los Angeles was 90%. Today, some estimate it is as little as 35%.⁹ Sadly, this mass displacement likely represents not only displacement out of central L.A., but also the movement of a huge segment of the Black community into jails and prisons throughout the state.

The first publication by the Strategy Center was written by Cynthia Hamilton in 1990, entitled, 'Apartheid in an American City: The Case of the Black Community in Los

⁸ U.S. Census Bureau, The Black Population: 2010. Table 6 (September 2011).

⁹ 'Urban Flight from Los Angeles: Straight Outta Compton.' *The Economist* (2008, Feb. 14); see also 'Black Population in L.A. County Declines as More Return South.' *Our Weekly* (2014, Feb. 7).

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Angeles,' where she predicted the current displacement and dislocation of the Black Community. Cynthia Hamilton wrote:

“.. Much like the bulldozing of black encampments on the fringe of Johannesburg or Durban, it can be argued, South Central is inevitably slated by the historical process to be replaced without a trace: cleared land ready for development for a more prosperous—and probably white—class of people. For the larger, unspoken malady affecting South Central stems from the idea that the land is valuable and present tenants are not. This “bantustan” like its counterparts in South Africa, serves only as a holding space for blacks and browns no longer of use to the larger economy.”

The devastation and mass displacement of the Black community in South LA takes shape in a long history of policies - City, County, regional and statewide decision-making - that create and solidify insurmountable hardships for Black residents while simultaneously promoting a gentrified reshaping of L.A. The LA MTA plays a major role in this reshaping by fundamentally altering public transit services, and impacting access and affordability in a manner that mirrors the gentrified reshaping,¹⁰ despite serving an overwhelmingly low-income clientele that is reportedly 72% Black and Latino on rail and 80% Black and Latino on the bus.

The most recent form of racial discrimination to play out, yet one that is connected to the role of public transit, criminalization and gentrification, comes in the form of police on our buses and trains and the implementation of pre-emptive policing that overwhelmingly impacts poor and transit dependent communities of color¹¹ - with an intolerable level of impunity towards the disproportionate criminalization of the Black community here in L.A.

Police presence on the LA MTA system and increased contact with transit riders has expanded massively over time. In 1997, approximately 150 Sheriff deputies and officers were assigned to LA MTA, 100 MTA police officers and a \$14.5 million contract with the Los Angeles Police Department provided up to 208 additional officers. By 2009 MTA was solely contracting with the Sheriff's Department and for several years repeatedly renewed an annual \$83 million contract until an audit revealed major discrepancies on the part of the Sheriff, including in one instance a lack of appropriate follow through regarding use of force complaints.¹²

¹⁰ See, for example, Wick, J. This Map Shows How and Why Gentrification is Happening Along L.A.'s Transit Lines. *LAist*. (Visual, evidence-based documentation of the relationship of MTA rail development, gentrification and the displacement of communities of color). Available at http://laist.com/2016/08/30/gentrification_map.php.

¹¹ See for example, Sunne, S. (2016, September 8). I got arrested for putting my feet up on the subway. I was lucky I was white. *The Washington Post*. Available at https://www.washingtonpost.com/posteverything/wp/2016/09/08/i-got-arrested-for-putting-my-feet-up-on-the-subway-i-was-lucky-i-was-white/?utm_term=.4dfa85264c4c.

¹² Linton J., Metro Extends Sheriff Contract 6 Months; What's in Metro Policing's Future. *StreetsBlogLA*. (2014, Nov. 17).

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The expansion of police on MTA's system has had a direct correlation to the discretionary mechanisms adopted and implemented by the MTA Board of Directors for fare enforcement.¹³ The first year of the Sheriff's contract marked some of the highest total citation numbers to date of 119,078 and began a pattern and practice of racial discrimination that has persisted and worsened over time – 43% of all Sheriff citations were issued to Black riders in 2009 compared to 50% of all MTA Police and Sheriff citations in 2013.

The LA MTA fare enforcement system is designed to afford the most discretion possible for a police stop and fare check - any rider, at any time, is inherently subject to a police stop simply for accessing the transit system, prior to any evidence or suspicion of wrongdoing. The rail system in particular, where the majority of citations are issued, was originally operated under the 'honor' system. Up until approximately 7-8 years ago, rail stations could be entered and exited freely without any manual mechanism for demonstrating proof of payment. Most, but not all, MTA stations now have waist-high turnstiles that now require tapping a Transit Access Card ('TAP') to pay the fare and enter the system.

The LA MTA system remains generally accessible without necessarily tapping a fare. Public debate by the MTA Board and LA County Board of Supervisors did acknowledge a risk of discrimination against low-income communities of color, given that they are the majority of MTA ridership, in the decision to focus on police enforcement against 'fare evasion' versus an infrastructure of prevention from accessing the system. Data is inconclusive on how many rides actually go unpaid on the rail system. Some estimate that MTA loses approximately \$5 million due to 'fare evasion,' annually - a small fraction of their total \$5.6 billion budget.¹⁴ Passenger fare revenue is also comparably low with respect to other major sources of funding, budgeted at \$339.9 million for fiscal year 2016 and \$346.2 million for 2017.¹⁵

Police and staff are not at every turnstile or on every train and bus. Rather, they can be present on any train, bus, or platform, at any time. LA MTA currently contracts with the Sheriff and employs civilian staff to conduct fare checks. There has historically been a lack of transparency about when and where police are stationed and what, if any, are MTA's deployment criteria. However, their visible presence is heightened during times of high traffic commuting, especially hours for commute to and from school and work.¹⁶ Citation rates also reflect a potentially higher presence in high poverty areas and stations that serve as a dense, transitional hub where rail lines meet.

¹³ According to MTA data, 89% of citations referred to Transit Court in 2013 were issued for 'fare evasion.' Data available in the Metro Transit Court Report for 2012 and 2013, Prepared by the Los Angeles County Metropolitan Transit Authority and Submitted to the Senate Committee on Transportation and Housing and Assembly Committee on Transportation, pg. 8.

¹⁴ Nelson L. and Schluess J. (2014, July 28). So how many people are actually paying to ride? *The Los Angeles Times*.

¹⁵ Los Angeles County Metropolitan Transportation Authority, Adopted Budget July 1, 2016 – June 30, 2017 available at http://media.metro.net/about_us/finance/images/fy17_adopted_budget.pdf.

¹⁶ A 2004 MTA survey indicated that by far the most common usage by transit riders was to travel to work and home.

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In 2013, for instance, citations totaled at 8,850 at the ‘Imperial’ station (renamed the ‘Willowbrook/Rosa Parks’ station). The station is located deep in South Los Angeles near Watts and it serves as a hub where the MTA Green and Blue lines meet. Black ridership has historically been highest on the Blue line (35% in 2004) and slightly higher on the Green line (24% in 2004) than Black ridership overall. The ‘Imperial’ station had the highest number of citations each year from 2012 to 2015 and significantly higher totals than the majority of all other stations.

The Blue and Green lines, that serve a higher concentration of high poverty areas, have an overall higher frequency of ticketing in proportion to their ridership. In 2013, for instance, the Blue line had a total of 28,175 citations compared to a total of 31,409 on the Red/Purple line but the Blue line had only a reported, 2,389,132 monthly boardings in July 2014 versus 4,122,088 million on the Red/Purple line¹⁷ – a potential 54% greater rate of citations on the Blue line during this timeframe.

The concentration of policing on high poverty rail lines is consistent with a form of pre-emptive policing often referred to as ‘broken windows.’ By MTA’s own admission, police citations and fine-based penalties are imposed against ‘quality of life’ violations, including but not limited to, ‘fare evasion,’ smoking, drinking or eating, and the problematically vague, ‘willfully disrupting others by engaging in boisterous or unruly behavior.’¹⁸ These represent some of a long list of other minor issues that have been criminalized specifically on public transportation under California Penal Code section 640.

While not always representing large numbers of tickets, several of the ‘quality of life’ categories demonstrate an inhumane attitude towards customers and an overall approach of criminalizing poverty. Violation descriptions include, for example, highly subjective categories like ‘Gross/Repulsive Odor,’ ‘Failure to Cntrl Child,’ ‘Disturb Others Noise’ and ‘Unsafe Conduct.’ Hundreds of citations are also issued each year for ‘Spitting’ and ‘Littering.’ (See LA MTA Violation Description chart, Attached herein as **Exhibit 3**).

Under MTA’s fare enforcement system there is no precipitating evidence or suspicion of wrongdoing required for a police stop for fare enforcement. Passengers must submit to an officer by nature of simply utilizing the transit system and with that submission comes the potential for progressively more intrusive policing, including a ‘stop and frisk.’ While every police stop and fare check may not also entail a ‘frisk,’ many do. But even more importantly, it is clear that the framework of fare enforcement empowers a ‘stop and frisk’ practice that is discriminatorily impacting Black riders; and the existing racial harms are consistent with well-documented outcomes when an explicit policy of ‘stop and frisk’ is

¹⁷ LA MTA ridership statistics available at <https://www.metro.net/news/ridership-statistics/>.

¹⁸ Metro Transit Court Report for 2012 and 2013, pg. 8.

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in place.¹⁹ MTA CEO Washington himself admitted that, ‘data appears to demonstrate that over the past four years a “stop and frisk” practice has certainly existed.’²⁰

A ‘broken windows’ approach is not unique to LA MTA. In fact, ‘broken windows’ policing originated on public transit in New York City in the 1990s, and often took form in an explicitly heavy-hand towards criminalizing ‘turnstile jumpers.’²¹ ‘Broken windows’ policing has disproportionately impacted the Black community. A 2016 report released by the New York City Department of Investigation, Office of the Inspector General for the NYPD found that, ‘crack-downs on small crimes disproportionately happened in precincts with large numbers of black and Hispanic residents, while precincts with large percentages of white residents were much less affected.’²²

‘Broken windows’ has been significantly scrutinized of late and publicly criticized by community and government alike for its lack of effectiveness, its devastating, dehumanizing, and discriminatory impacts, and its legacy of targeted and racist implications specifically for the Black community.²³

A. Federal Financial Assistance

LA MTA is a substantial recipient of federal financial assistance and receives funds from more than 15 different federal sources.²⁴

B. Timeliness

LA MTA has engaged in an ongoing pattern and practice of systemic criminalization and racial discrimination that continues to present. Complainants are in receipt of MTA citation and arrest data from 2009 – May 2016 and racial disparities for Black transit riders exist throughout. This complaint is timely filed within 180 days of the most recent data available and the continued discriminatory practice of MTA fare enforcement.

II. A Pattern and Practice of Systemic Criminalization and Racial Discrimination Against Black Transit Riders on LA MTA

¹⁹ See, e.g., NYCL Stop-and-Frisk-data (In 2015, 80% of those subjected to a stop and frisk were innocent and 83% were Black and Brown).

²⁰ Brooks, Metro CEO Vows to Correct ‘Stop and Frisk’ Practice. The Sentinel. Footnote 1.

²¹ Tolan C. (2016, Feb. 3) How New York City is slowly rethinking broken windows policing. *Fusion*.

²² See, e.g., Wan W. (2016, June 22). Does New York City’s ‘broken windows’ policing work? New report says no. *The Washington Post*; see also New York City Department of Investigation, Office of the Inspector General for the NYPD, An Analysis of Quality of Life Summonses, Quality of Life Misdemeanor Arrests, and Felony Crime in New York City 2010-2015 (June 2016).

²³ Peters J. (2014, Dec. 5). Loose Cigarettes Today, Civil Unrest Tomorrow: The racist, classist origins of broken windows policing. *Slate*; see also Jackson D. (2014, Dec. 29). ‘Broken windows,’ broken policy. *The Boston Globe*.

²⁴ See 2015 Metro Funding Sources Guide, Los Angeles County Metropolitan Transportation Authority available at http://media.metro.net/projects_studies/funding/images/2015_funding_sources_guide.pdf.

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A. The extreme disproportionality of citations and arrests of Black transit riders is evidence of a pattern and practice of systemic criminalization and intentional and disparate impact racial discrimination

The vast majority of citations issued on LA MTA have been for the criminalization of fare enforcement.²⁵ (See LA MTA Attachment F., Response to Inquiries from March 29, 2014 Public Hearing, Attached herein as **Exhibit 4**).

The mechanism implemented for fare enforcement has empowered MTA and the police full discretion to decide when and where checks will be employed and who will be stopped and questioned, at any given point. The result - a targeted attack on MTA's Black customers that is exploitative of both existing racial pretexts embedded and well-documented in pre-emptive police tactics like 'stop and frisk,' and the know social circumstances of transit dependent Black riders.

MTA overwhelmingly serves very low-income communities that are predominantly Black and Latino. In 2004, the average household income was < \$25,000.²⁶ In 2010, MTA reported that 70% of bus riders and 46% of rail riders had an average household income below \$26,000. In 2015, the average household income was reported at \$19,374 for train riders and \$14,876 for bus riders.²⁷ Rail lines with the highest percentage of Black riders also have comparably lower average household incomes.²⁸

In 2012, MTA opened a Transit Court and thereby took charge of processing most citations issued on its own system. MTA currently holds the power to write, implement and enforce a 'Code of Conduct,' and similarly to operate a system of administrative and fine-based penalties.²⁹

For the vast majority of citations in Transit Court, fines are imposed by default and based on a presumption of guilt similar to a parking ticket structure. With only 21 days to pay or appeal the citation in writing, many people quickly lose the opportunity to clear the ticket if they are unable to afford the fine. While a failure to appear or failure to pay could previously be cured in the LA Superior Court by appearing on the citation, Transit Court fines are indefinitely imposed after the 21-day period and can increase over time. There is no access to legal assistance in Transit Court and in the few cases in which our legal advocate was able to make contact with clients and submit appeals within the short 21 day window, the Transit Court failed to even notify the attorney of record of their decision to uphold the citations in each case, a clear due process violation in any other

²⁵ According to MTA data, 91% of Transit Court citations in 2014 and 89% in 2013 were issued for 'fare evasion.' See Metro Transit Court Report for 2012 and 2013; LA MTA Response to Inquiries from March 29, 2014 Public Hearing, Attachment F.

²⁶ Los Angeles County Metropolitan Transportation Authority, 2004 Metro Rail On-Board Survey Conducted By: Strategic Consulting and Research.

²⁷ Survey data published online by the LA MTA.

²⁸ 2004 Metro Rail On-Board Survey.

²⁹ California Penal Code 640 criminalizes certain conduct on public transportation statewide and empowers transit operating systems to enforce administrative penalties against their own customers.

court of law. Public interest attorneys representing high-risk youth populations like foster care, former foster care and homeless youth, have similarly noted a highly problematic system that raises significant due process concerns. (See Public Counsel Attorney Declarations by Leah Glasser-Ordaz and Christy Ferioli, Attached herein as **Exhibit 5**).

Since the Transit Court opened, Black adults have received 50% or more of all MTA citations³⁰ each year.³¹ Prior to the Transit Court opening, the Sheriffs issued a much higher frequency of citations, 342,942 in just 3 years between 2009-2011, and Black riders were between 42%-47% of those citations each year.

The 2015 reported race and ethnic demographics of the MTA system are as follows:

	Bus	Rail
Latino	63%	53%
Black	17%	19%
White	8%	13%
Asian/Pacific Islander	8%	9%
American Indian	1%	1%
Other	3%	5%

Discriminatory Citations issued by LA MTA & Sheriff:

- Since 2012 and thru May of 2016, MTA and Sheriff combined have issued close to a half a million citations at 455,388.³² Of this total, Black riders made up at least 48% of those cited. From 2009 thru May of 2016, the total citations are closer to 700,000.
- In 2014, there were at least 101,068 Transit Court and criminal citations issued by MTA and the Sheriff. Of this total, 73,708 went to Transit Court and 51% were issued to Black adult riders.
- In 2015, the total decreased to 58,801. Of this total, 38,035 citations went to Transit Court and 52% were issued to Black adult riders.
- In 2014 and 2015, 75% and 77% of Transit Court citations went to males - indicating that Black males are likely subject to fare checks at far higher rates than other groups.
- A racial breakdown within gender was not provided. We suspect data will reflect significant disproportionality in citations to Black females.
- In 2014 and 2015, white transit riders received 11% of citations.
- In 2014 and 2015, Asian riders received only 5% of the total citations.
- In 2014 and 2015, Latino riders received only 33% and 32% of the total citations.

³⁰ 'MTA citations' refers to the tickets that are issued directly to the Transit Court, an administrative system currently operating under state legislative power to administer a fine-based penalties for transit riders 18 years and older.

³¹ Data cited throughout this correspondence is based on information received by MTA through our Public Records Act request, unless otherwise specified.

³² This total does not reflect all tickets that were issued to youth in 2014 because this data was not provided by MTA.

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Discriminatory ‘Fare Evasion’³³ Citations issued by LA MTA and Sheriff:

- In 2012, Black riders received 53% of the 62,379 ‘fare evasion’ citations.
- In 2013, Black riders received 51% of the 80,698 ‘fare evasion’ citations.
- In 2014, Black riders received 52% of the 73,151 ‘fare evasion’ citations.
- In 2015, Black riders received 53% of the 37,355 ‘fare evasion’ citations.
- From January thru May of 2016, Black riders had already received 52% of the 14,626 ‘fare evasion’ citations.
- Black riders also received upwards of 57%-59% of the ‘board without pay’ citations, an MTA ‘Code of Conduct violation.
- Each year, males are at least 74% of the ‘fare evasion’ citations and upwards of 77% - 80%.
- The highest rates of citations are to young adult riders ages 18-24 - 45%-50% of citations are issued to riders in this age range each year, indicating that young Black males are likely subject to fare checks and the accompanying police stops at far higher rates than other groups.
- Each year from 2012 - 2015, white riders are 9%-10% of ‘fare evasion’ citations, slightly less than their reported rail ridership of 13%.
- Each year from 2012 - 2015, Latino riders are 32%-33% of ‘fare evasion citations, significantly less than their rail ridership of 53%.
- Each year from 2012 - 2015, Asian riders are 4%-5% of ‘fare evasion citations, slightly less than their rail ridership of 9%.

Discriminatory Arrests by Sheriff on LA MTA³⁴:

- In 2015, Black riders were 53% of the 6,808 arrests.
- In 2014, Black riders were 58% of the 8,083 arrests.
- In 2013, Black riders were 60% of the 10,733 arrests.
- In 2012, Black riders were 61% of the 10,494 arrests.
- In 2011, Black riders were 60.5% of the 11,716 arrests.
- In 2010, Black riders were 59% of the 9,077 arrests.
- In 2009, Black riders were 63% of the 9,053 arrests.
- Thru May of 2016, Black riders were 54% of arrests.
- Between 2009 thru May of 2016, males were on average 82.5% of arrests - indicating that black males are likely subject to police stops and detainments more than any other group.
- The vast majority of arrests are categorized as misdemeanors, over 80% each year and 82% of the total 58,583 arrests that took place from 2009 thru Nov. 2014.³⁵

³³ ‘Fare evasion’ data only includes citations under Penal Code 640 (c)(1)&(2) and a ‘Board Without Proof of Payment’ violation of MTA’s Code of Conduct. There may be additional ‘fare evasion’ type citations unaccounted for in the data, including for example, ‘Misuse of fare media.’

³⁴ Despite multiple requests in our public records requests, neither MTA nor the Sheriff’s Department has provided a breakdown of the underlying offenses for the arrest data.

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B. The pattern and practice of systemic criminalization against Black transit riders violates equal protection, equal access and opportunity to public transportation

The Black community is faced with the dilemma of being forced to subject oneself to a racial discriminatory system and increased contact with the police and potential police misconduct, in order to utilize public transportation, under conditions where transit reliance is more frequently than not a public necessity rather than a choice.

The vast majority of workers who commute using public transit in L.A. are transit-dependent, living in households with fewer cars than adults or no cars at all. These workers are heavily concentrated in the lowest income quartile in LA County and the vast majority are people of color.³⁶ This community of transit-dependent workers has systematically been forced onto a significantly more heavily policed rail system over time, due to massive cuts in bus service and other decision-making to accommodate, ‘pursing possibly the most ambitious rail transit investment program in the nation.’³⁷

Black and Brown riders in L.A. are disproportionately transit dependent and more likely to depend on the MTA transit system for a longer term.³⁸ MTA has previously reported that 77% of riders did not have access to a car as an alternative form of transportation for their most frequent use of the transit system.³⁹ More recently, in 2015, MTA reported that only 18% of bus riders and 35% of rail riders had access to a car as an alternative source of transportation. A Bus Riders Union analysis in conjunction with UCLA’s Urban Planning and Social Welfare Department revealed that 89% of workers using transit were people of color and 82% of transit users from 2006-2010 were from households where one or more adults lacked access to a car.⁴⁰

While Black riders on MTA are highly transit dependent, ridership still appears to be decreasing. Since 2010, Black ridership went from a reported 22% to 19% on rail and 19% to 17% on the bus.⁴¹ Overall MTA ridership has been reported to decline significantly since 2007. Some sources indicate an overall ridership decline by more than 10%, and potentially as high as 12.3% from the same time period.⁴² The decline in MTA

³⁵ Misdemeanor and felony data was only provided for the dates referenced. We strongly encourage the DOT and the DOJ to request a breakdown of the underlying offenses for all Sheriff arrests. On one occasion, MTA officials anecdotally referenced that a majority of arrests occur in relationship to an initial fare check. We have also spoken to individuals where the charge is ‘resisting an arrest’ due to lengthy and volatile police detentions that are escalated during an initial fare check.

³⁶ Ong P. and Jimenez S., Analysis of the Economic Conditions Facing Low-Income MTA Riders, 2006-2010. Bus Riders Union (February 2011).

³⁷ Mineta Transportation Institute, Changes in Transit Usage and Service and Associated Changes in Driving Near a New Light Rail Line, MTI Report 12-44 (May 2015) pg. 1.

³⁸ Los Angeles County Metropolitan Transportation Authority FY 2004 Metro Rail On-Board Survey Conducted by: Strategic Consulting & Research.

³⁹ Los Angeles County Metropolitan Transportation Authority FY 2002 On-Board Bus Survey.

⁴⁰ Ong P., Economic Conditions Facing Low-Income MTA Riders, footnote 38.

⁴¹ 2015 survey data published online by the LA MTA.

⁴² Nelson L. and Weikel D., Billions spent but fewer people using public transportation in Southern California. *Los Angeles Times* (2016, Oct. 10); See also Rubin T. Is the Los Angeles Times Article, ‘Billions Spent, But Fewer People Are Using Public Transportation in Southern California,’ Misleading? Available at <http://demographia.com/db-rubin-la-transit.pdf>.

ridership has historically coincided with fare increases, bus service cuts, and expensive rail construction, much of which took place immediately following the end of federal oversight in 2006 when the 10-year Consent Decree secured by Strategy Center litigation was lifted. (For more details see Section III. of the complaint).

There are a series of economic, psychological and social hardships associated with police fare checks, detainments, citations, arrests, and the coinciding administrative and criminal penalties that make the public transit experience for Black riders a pervasively hostile experience. From humiliating and intrusive police checks, lengthy detainments, and unlawful and intrusive searches, to the escalation of fare checks that can lead to harassment and misconduct by the police, physical restraints, and even arrests - Black riders are bearing these hardships in mass numbers and far greater than any other group. A 'stop and frisk' fare enforcement system furthermore increases police interactions with Black transit riders which in turn has very real potential of putting them at a greater risk of violence, and even death at the hands of police, than any other group.⁴³

Organizing on the buses and trains, the Strategy Center has spoken to Black males that were initially stopped for a fare check and instead of a 'fare evasion' citation they ended up in jail with a felony 'resisting arrest' charge.⁴⁴ (See Declaration of Charles Harrell Attached herein as **Exhibit 6**). We have spoken to Black children as young as 13 years old, and young adults commuting to credit recovery programs to finish high school that were stopped on their way to and from school, detained and cited for forgetting their pass, not 'tapping' their pass, or not being able to afford the fare. Riders also frequently report being signaled out, stopped and questioned by the police when others are not as a form of racial profiling. Furthermore, once individuals are in the MTA Transit Court system there is no leniency or dismissal in the interests of justice for even the highest risk populations and life circumstances. (See **Exhibit 5**).

Taken in their totality these harms demonstrate a racial animus and system of extreme hostility towards Black riders that demands urgent oversight and remedy. We contend the astronomical disproportionality of citations in relationship to actual Black ridership on buses and trains (17%-19%) rises to the level of intentional discrimination. Furthermore, there have been a series of additional MTA decisions that have created and institutionalized extreme barriers in affordability and access, hurting the poorest, most transit dependent residents of LA through fare increases, bus service cuts and expensive rail construction, while simultaneously affording MTA and its police the greatest discretion possible to detain and fine its riders, such that racial discrimination becomes unavoidable for transit dependent Black residents.

⁴³ Dreier, P. (2016, July 11). Caught on Camera: Police Racism. The American Prospect. (according to data from the Center for Disease Control Black people were 4.2 times more likely than whites to be killed by law enforcement between 1968 – 2011).

⁴⁴ In another incident, we spoke to a Black male rider with an MTA issued disabled identification that was restrained and arrested by Sheriff officers during an initial fare check.

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MTA has both failed to remedy the systematic criminalization and discrimination against Black riders and continues to engage in decision-making that harms the Black community. While MTA refers to its Transit Court as a form of de-criminalization, primarily because the penalties are technically administrative versus criminal, the harms experienced by riders suggest otherwise. The Transit Court has simply transferred the hardships to a more stringent fine-based processing system that lacks the due process protections formerly afforded in the LA Superior Court. Most notably, its existence does nothing to deter the initial point of contact with the police or civilian fare checkers and the highly discretionary mechanisms in place for fare enforcement - the source of criminalization and racially discriminatory 'stop and frisk,' pre-emptive policing. Furthermore, racial disparities for Black transit riders have only increased since the Transit Court opened in 2012.

MTA has similarly suggested that civilian non-sworn officers may be an appropriate remedy and has begun hiring staff as the first point of contact for fare enforcement. However, in comparing the data by race, the administrative process of citation enforcement has even worse rates of Black disproportionality than those issued by Sheriff's officers. The MTA decision to begin the hiring process and transfer of duties to civilian fare checkers was done unilaterally without input or collaboration with community stakeholders, despite an explicitly vested interest conveyed by the Strategy Center on multiple occasions. (See Section IV. of the complaint).

Regardless, changing the fare checkers alone is an inadequate remedy. The MTA system is continuing the underlying pattern and practice of criminalizing fare enforcement for a clientele that is predominantly poor and non-white; and Black passengers on MTA continue to be subjected to an intimidating and demeaning fare enforcement process. The LA MTA fare collection process does not appear to be geared towards 'revenue generation,' but part of a larger plan to make public transportation inaccessible and unbearable for Black passengers. This has the culminating effect of driving Black residents off MTA buses and trains, and ultimately changing the landscape of LA at the expense of disproportionately displacing Black community members.

We are seeking a remedy for the civil rights violations and systemic criminalization against Black riders on LA MTA. The most immediate and urgent remedy is to stop the attack at its source. Police and civilian fare checks must end - the data is clear that the extent of discrimination against Black transit riders is a pattern and practice that has persisted over many years and one that is not race neutral. Such extensive racial discrimination unlawfully changes the nature and quality of public transportation for just one class of people. The pattern and practice of criminalization is resulting in extreme racial disparities and is even more egregious in light of the disproportionate poverty and transit dependence faced by the Black community, the extreme neglect on the part of MTA to remedy a discriminatory system, and the barriers and hardships that are created by criminalizing dependence on public transit.

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C. The denial of equal protection on public transportation has further racially discriminatory implications for Black residents, including barriers to equitable access and opportunities for public goods and services

It is well documented that access to geographic mobility, including an infrastructure of quality public transportation, is an issue of race and class equity.⁴⁵ Particularly for transit dependent residents, the availability and affordability of public transportation is essential to access employment, education, health, mental health and other social resources.

Studies have demonstrated that geographic mobility and adequate public transportation are linked to rates of employment and income,⁴⁶ and length of time spent commuting is the strongest single factor impacting ability to move out of poverty.⁴⁷

Families and students from the most impoverished neighborhoods are particularly reliant on public transit in a sprawling county like Los Angeles to commute to and from school and work. And yet, LA MTA's mass transit system is feeding and deepening an already devastating landscape for the Black community.

Locally:

- In 1970, the Black population of Los Angeles was estimated at approximately 763,000. Today it is estimated just over 365,000.
- Black residents of LA County have the lowest median household income of any other group at \$34,300,⁴⁸ significantly lower than the County average of \$55,909.
- Black residents have been systematically forced out of almost every job category they originally fought their way into—auto, janitorial, construction, government, and retail. According to the Los Angeles Black Workers Center, 50% of Black workers in L.A. are unemployed or underemployed.
- The LA County Sheriff's Department (contracted by MTA to enforce citations on bus and rail) arrested Blacks at 4 times the rate of other races in 2011-12, with an overall arrest rate of 24.5 per 1000 for Black residents versus 6.7 for non-Black residents.⁴⁹
- In 2011, Black adults were an overall 31% of our County Central and 'Twin Towers' Jail population operated by the Sheriff's Department.

⁴⁵ Sanchez T. et. al. Moving to Equity: Addressing Inequitable Effects of Transportation Policies on Minorities. A Joint Report of the Harvard University Civil Rights Project and Center for Community Change (2003); Bullard R. Addressing Urban Transportation Equity in the United States, Fordham Urban Law Journal, Volume 31 Issue 5 (2003); The Leadership Conference Education Fund, Where We Need to Go: A Civil Rights Roadmap for Transportation Equity (March 2011); Chetty R. and Hendren N. The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates (May 2015); the Ferguson Commission, Forward through Ferguson: A Path Toward Racial Equity (October 2015); and Labor/Community Strategy Center, A New Vision for Urban Transportation: the Bus Riders Union Makes History at the Intersection of Mass Transit, Civil Rights, and the Environment (1996).

⁴⁶ White, G. Stranded: How America's Failing Public Transportation Increases Inequality (2015, May 16). *The Atlantic*.

⁴⁷ Chetty R. and Hendren N. The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates (May 2015).

⁴⁸ Statistical Atlas, Household Income in Los Angeles County available at <http://statisticalatlas.com/place/California/Los-Angeles/Household-Income>.

⁴⁹ According to a data search on USA Today's interactive map.

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- Black children make-up over 29% of those in LA County's foster care system - they are only approximately 7.5% of the population.⁵⁰
- The felony arrest rate for Black youth is 26.3 per 1,000 residents as compared to 6.2 for Latino and 3.3 for white youth.⁵¹
- A recent study found that Black youth made up 36% of 100 randomly selected cases of youth incarcerated and in suitable placement within the L.A. County Probation system.⁵²
- In 2012, Black youth received an unconscionable 51% of the 'fare evasion' citations issued to all youth. Between June 2012 and June 2013, 'fare evasion' accounted for over 27% of all citations issued to youth by law enforcement throughout L.A. County.⁵³

Statewide:

- Black Californians have the highest unemployment rates, hitting an all time high of 20.3% in 2011-2012 when MTA citations were at their highest total numbers and continuing to persist at 'recessionary levels' longer than any other group.⁵⁴
- Black males are significantly more likely to be imprisoned than any other group in California - impacting their livelihood and that of their family members - at a rate of 4,367 per 100,000, compared to 922 for Latinos, 488 for non-Latino whites, and 34 for Asians.⁵⁵

Nationwide:

- Blacks are more likely to be arrested than any other race.⁵⁶
- Blacks are at greater risk of violence and death at the hands of police than any other group.⁵⁷
- Black adults and youth have the highest rates of extreme unemployment.⁵⁸

The LA region unfortunately has a long and sordid history of policing poor communities of color in correlation with a gentrified re-shaping of the City. Black children and adults

⁵⁰ Data on foster care and youth demographics is available online at www.kidsdata.org.

⁵¹ Data is available online at [kidsdata.org](http://www.kidsdata.org).

⁵² Herz D. et. al. The Los Angeles County Juvenile Probation Outcomes Study (April 2015).

⁵³ Data is based on the L.A. County Probation Citations Diversion program and is available upon request.

⁵⁴ California Employment Report, California Center for Jobs & the Economy (June 2015) available at <http://www.centerforjobs.org/job-reports/june-2015/>.

⁵⁵ Public Policy Institute of California, California's Changing Prison Population available at http://www.ppic.org/main/publication_show.asp?i=702.

⁵⁶ Heath, B. (2014, November 19). Racial gap in U.S. arrest rates: 'Staggering disparity.' *USA Today*. Data available at <http://www.usatoday.com/story/news/nation/2014/11/18/ferguson-black-arrest-rates/19043207/>.

⁵⁷ Dreier, P. (2016, July 11). Caught on Camera: Police Racism. *The American Prospect*. (according to data from the Center for Disease Control Black people were 4.2 times more likely than whites to be killed by law enforcement between 1968 – 2011).

⁵⁸ See for example UCLA Institute for Research on Labor and Employment, Research and Policy Brief Number 7, Los Angeles Black Worker Center, A New Sense of Power of the People: Fighting for Equity, Transparency, Accountability and Justice in the 21st Century Job Market (Feb 2011).

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in LA are too often forced to navigate this humiliating and dangerous system on a daily basis.

Black children have been particularly impacted by systemic criminalization. Through massive unemployment, loss of homes and apartments, and the mass incarceration of family and extended community members, Black children too frequently are driven into foster care, jails, group homes, and at times dispersed into communities where Black people are an isolated minority.

Through our organizing to challenge the school-to-prison-pipeline in LAUSD, we worked with hundreds of youth and documented extensive levels of racial discrimination through ‘quality of life,’ citations in, ‘Black, Brown and Over-Policed in L.A. Schools: Structural Proposals to End the School-to-Prison-Pipeline in the Los Angeles Unified School District and to Build a National Movement to Stop the Mass Incarceration of Black and Latino Communities.’⁵⁹ Data on citations and arrests and extensive anecdotal information from thousands of surveys documented:

‘...a common experience in many low-income Black and Latino neighborhoods for a student to walk out their door in the morning and run a gauntlet of LAPD in their neighborhood, then LASD patrols on public transit, then LASPD and Probation at their school all day, at the front gate, in the halls, the cafeteria at lunch, in random bag searches during their classes. At the end of the day, they must pass through the same gauntlet in reverse to get home.

Such a deeply embedded and institutionalized form of pre-emptive policing has extremely significant consequences. Like the school-to-prison-pipeline forecloses opportunities towards graduation, college and employment for Black students, ‘stop and frisk’ transit policing fundamentally impacts the economic and public health landscape for the Black community by restricting access and opportunity.

Unfortunately, L.A. has a long and sorted history of intense policing in poor communities in relationship to geography, race, and public space.⁶⁰ One specific example targeting a majority Black impoverished and homeless population began in 2006 with the Los Angeles Police Department’s (LAPD). LAPD explicitly targeted downtown’s ‘skid row’ section resulting in the harassment, arrests and displacement of thousands of homeless and low-income residents with specifically egregious impacts on the Black community no longer accessing social services.⁶¹ After 4 years of LAPD criminalizing and forcing poor and Black residents out of ‘skid row,’ a reported 53.6% of the homeless population

⁵⁹ Our report can be accessed online at <http://www.thestrategycenter.org/report/black-brown-and-over-policed-la-schools>.

⁶⁰ See for example Davis, Mike. *City of Quartz: Excavating the Future in Los Angeles*, Chapter 4 Fortress L.A. London: Verso, 1990.

⁶¹ Hoffman J. (2007, Oct. 3). *LAPD Gentrifies Skid Row: As the Affluent take the City, Poor Black Residents are Pushed Out with Force. Colorlines.*

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had been arrested; as a result of arrests 51.5% lost their housing, 42.4% lost access to social services, and 16.4% lost their employment.⁶²

Lastly, the mounting death toll of Black men at the hands of police, in L.A. and beyond, has evoked a human rights criticism of international scope. Recommendations by the United Nations Human Rights Council⁶³ and the U.N. Committee on the Elimination of Racial Bias⁶⁴ cite an urgent call to end the systemic problem of police brutality, violence and its relationship to racial discrimination. In this climate of a persistent and well-documented pattern and practice of police violence and impunity⁶⁵ nationwide, we are not convinced that the evidence of racial animus taking place on LA MTA is not an indicator of something horrible to come.

III. A History of LA and MTA's Anti-Black Policies and the Irreparable Harm to the Black Community

Martin Luther King, Jr., A Testament of Hope (1969):

“When you go beyond a relatively simple though serious problem such as police racism, however, you begin to get all the complexities of the modern American economy. Urban transit systems in most American cities, for example, have become a genuine civil rights issue -- and a valid one -- because the layout of rapid-transit systems determines the accessibility of jobs to the black community. If transportation systems in American cities could be laid out so as to provide an opportunity for poor people to get meaningful employment, then they could begin to move into the mainstream of American life. A good example of this problem is my home city of Atlanta, where the rapid-transit system has been laid out for the convenience of the white upper-middle-class suburbanites who commute to their jobs downtown. The system has virtually no consideration for connecting the poor people with their jobs. There is only one possible explanation for this situation, and that is the racist blindness of city planners.”

LA MTA is a repeated bad actor. MTA's pattern and practice of criminalization on LA's buses and trains, and the systemic abuses towards its Black riders is the next in line of a long record of civil rights violations that clear the path for the ultimate goal - claiming stake on more and more land for rail and development that supports jobs, housing,

⁶² Boden P. (2010, May 25). The Devastating Impacts of Safer Cities Policing in Skid Row. *The Huffington Post*.

⁶³ United Nations, General Assembly, Human Rights Council, *Draft Report of the Working Group on the Universal Periodic Review A/HRC/WG.6/22/L.10* (21 May 2015) available at http://www.upr-info.org/sites/default/files/document/united_states/session_22_-_may_2015/a_hrc_wg.6_22_l.10.pdf.

⁶⁴ Nebehay, S. U.N. urges U.S. to stop police brutality after Missouri shooting (2014, Aug. 29). *Reuters*. Available at <http://www.reuters.com/article/us-usa-missouri-shooting-un-idUSKBN0GT1ZQ20140829>.

⁶⁵ Elinson, Z. (2015, Sept. 23). More Police Go to Trial in Killings, but Convictions Remain Rare. *The Wall Street Journal*. (Not a single officer was convicted of murder or manslaughter in 2015).

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resources and educational opportunities intended to serve higher income, and more predominantly, white residents.

We hold every governmental agency in Los Angeles, L.A. Mayor, L.A. City Council, L.A. County Supervisors, and the Los Angeles MTA (whose Board includes the mayor of LA City and his 3 additional appointees, all 5 members of the Los Angeles County Board of Supervisors, and 4 members of the L.A. County League of Cities), directly responsible for this mass attack, dispersal, and demoralization of L.A.'s Black Community.

In 1994, the Labor/Community Strategy Center, Bus Riders Union, Southern Christian Leadership Conference, and several other groups brought the MTA in front of federal courts.⁶⁶ We charged them with both intentionally, and based on disparate impacts, violating the civil rights of Black and Latino bus riders under Title VI of the 1964 Civil Rights Act by establishing a separate and unequal bus system for overwhelmingly Black and Latino riders while massively subsidizing a rail system with far fewer riders and a significantly whiter ridership. The MTA's policies of racial cruelty and animus against Black and Latino riders were reflected in a dilapidated bus fleet, massive waits, levels of overcrowding that were unconscionable (as many as 40 people sitting and 40 people standing on MTA buses) and that were exacerbated by the decision to eliminate the monthly bus pass altogether—thereby raising bus fares from \$42 a month to upwards of \$100 or more for very low-income bus riders. We called on the federal courts to issue a Temporary Restraining Order to stop these irreparable harms to 400,000 low-income overwhelmingly Black, Latino, and female bus riders.

Federal Judge Terry J. Hatter issued such a restraining order. He ruled that there was in fact an irreparable harm to bus riders, a probability of us prevailing on the merits, and no legitimate or compelling 'business necessity' for MTA's actions. He forced the MTA to re-instate the monthly bus pass and enter into negotiations with the Strategy Center to dramatically improve the bus system.

In 1996, the Strategy Center and Bus Riders Union entered into a 10-year Consent Decree in which both parties agreed to work together to buy new buses and reduce fares to \$42 a month, \$21 bi-weekly. Throughout that process the MTA reneged on its commitments under the Consent Decree and appealed every order by the Special Master and the Federal District Courts to the 9th Circuit Court of Appeals and the Supreme Court under a 'states' rights' challenge to federal authority.⁶⁷ Their appeals were denied as Federal District Judge Hatter accused them of 'siding with the segregationists' in their appeal of his rulings.

⁶⁶ *Labor/Community Strategy Center et. al. vs. Los Angeles County Metropolitan Transportation Authority.*

⁶⁷ See Chong, J. and Liu, C. (2004, July 23) MTA Agrees to Add Buses. *LA Times*.

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Within the political and legal context of implementation of Consent Decree requirements, the MTA finally succumbed to community pressure and the federal court order and ultimately agreed to purchase 2500 Compressed Natural Gas buses, keep the bus fares at \$42, and add 1 million hours of additional bus service. However, the first purchase to expand the bus fleet did not take place until 2002, even though the Consent Decree had been in place since 1996. MTA spent over \$1 million in legal fees and admitted that their appeals were in part based on increased spending on buses hampering costly rail construction projects.⁶⁸ Eventually though, through this process and years of community struggle with MTA, ridership increased by 12 million annually (as measured by unlinked passenger trips) - a 36% increase from 1996 to 2007.⁶⁹

In 2006, the Strategy Center asked the federal courts to extend the duration of the Consent Decree on the grounds that the MTA had stopped ordering any new buses as required, and was simply waiting out the last 3 years of the decree. The MTA impressed on the courts that it had learned its lessons, and had every intention of keeping its improvements to the bus system. The Court lifted the decree ending federal jurisdiction on October 25, 2006.

Shortly thereafter, despite a \$3 billion budget, the MTA began to raise bus fares and cut service. Eventually, it cut the entire one million hours of service that the Strategy Center fought to secure and the federal courts had ordered. It then began a process of draconian fare increases against profoundly poor bus riders. As by design, bus ridership went down again as working people could not wait lengthy periods for buses that they also could not afford. And, we argue, a contributing factor to many Black residents and transit riders moving out of L.A., as a result of policies and decisions fueling gentrification and with specific animus towards the Black community.

In 2010, the Strategy Center brought an administrative complaint before the Department of Transportation (DOT) charging the MTA again with violating the civil rights of bus and rail riders through fare increases and service cuts and a punitive response to riders for having brought the initial civil rights suit.⁷⁰ The DOT took the complaint, made a full investigation, indicated preliminarily it would take remedial action but then, in our view under undue and illegal intervention by MTA officials, issued a technical finding that MTA had violated certain Title VI procedures but offered no remedy whatsoever.⁷¹ In our view, the MTA was again emboldened, and they proceeded to escalate attacks on passengers, and in particular Black transit riders, at a statistical and humanistic level that reflects intentional discrimination.

⁶⁸ Streater K. (2002, March 19). Final MTA Appeal of Bus Accord Fails. *The Los Angeles Times*.

⁶⁹ Data on ridership statistics is based on analysis conducted by former MTA employee Thomas A. Rubin and is available online at <http://demographia.com/db-rubin-la-transit.pdf>.

⁷⁰ The Title VI Complaint and supporting documentation can be found at <http://www.thestrategycenter.org/node/5776>.

⁷¹ The Final Title VI Compliance Review of the U.S. Department of Transportation, Federal Transit Authority, Office of Civil Rights is available online at http://www.publicadvocates.org/wp-content/uploads/la_metro_titlevi_report_12_12_11-1.pdf.

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IV. Record of Strategy Center Communications with LA Mayor Eric Garcetti and the LA MTA Board of Directors and Their Failure to Remedy ‘Stop and Frisk’ Racial Discrimination

LCSC engaged in extensive communication with LA Mayor Eric Garcetti and the MTA Board of Directors over the past several years - documenting a systemic pattern and practice of racial animus and civil rights harms on the MTA system.

On February 7, 2014, in the midst of MTA proposed fare increases, the Strategy Center sent Mayor Garcetti and the MTA Board a detailed letter in opposition of a system of ‘privatizing, polluting and policing,’ policies and practices, that included evidence of a racially discriminatory pattern of ‘stop and frisk’ fare checks targeting Black riders. Our demands for free fares and an end to ‘stop and frisk,’ policing were included. (See Letter to Mayor Eric Garcetti from the Labor/Community Strategy Center, Dated February 7, 2014, Attached herein as **Exhibit 7**).

The Strategy Center letter prompted an in-person meeting with Mayor Garcetti prior to a March 29th public hearing on the fare increases, in which we again outlined the policies and practices that must stop in order to protect the civil rights of Black riders.

On March 29, 2014, Strategy Center’s Fight for the Soul of the Cities and Bus Riders Union organizers and transit riders packed the MTA Board room for a public hearing on the proposed fare increases. Through several hours of public testimony, leaders in our movement, including LCSC Director Eric Mann put MTA on notice again of the systematic attack and anti-Black police practices of citations and arrests, ‘stop and frisk’ fare enforcement, and other forms of racial animus and police harassment.⁷² At this meeting, LA County Supervisor and MTA Board representative Ms. Gloria Molina requested more information from MTA staff on whether the fare increases raised issues of discrimination however no formal action has been taken to date, two and a half years later.⁷³

The March 29th public hearing was followed by another Strategy Center correspondence to Mayor Garcetti. (See Letter to Mayor Eric Garcetti from the Labor/Community Strategy Center, Dated April 22, 2014, Attached herein as **Exhibit 8**). Our letter demanded a rejection of the proposed fare-hikes and the misuse and misallocation of sales tax revenue and Measure R funds in light of racial discrimination against a train ridership that is 80% Black and Latino and data that clearly evidences the targeting of Black youth⁷⁴ by police for so called ‘fare evasion.’ At the time of our letter we did not

⁷² Citation and arrest data is just one indicator of police involvement and outcomes and does not capture the full extent of the problem, including but not limited to the occurrence of intrusive and unlawful searches, profiling, lengthy detentions, and verbal and/or physical intimidation and harassment.

⁷³ Linton, J. (2014, March 31). Opposition and Confrontation and Metro Fare Increase Hearing. *LA StreetsBlog*. Available at <http://la.streetsblog.org/2014/03/31/opposition-and-confrontation-at-metro-fare-increase-hearing/>.

⁷⁴ According to MTA data in 2012, Black youth received 51% of ‘fare evasion’ citations despite being an estimated 24% of transit riders.

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have the full spectrum of data on all MTA and Sheriff citations and arrests - which has since proven to be a more damaging landscape of civil rights violations against all Black transit riders.

On May 22, 2014, LCSC once again packed the Boardroom to testify against the vote to increase fares. After numerous attempts to stop MTA from these continued civil rights violations, the Board proceeded with the fare increase and did nothing to prevent or oversee ongoing racial discrimination and police misconduct.

In response to multiple communications, letters and testimony relaying the racial animus against Black riders and ‘stop and frisk,’ fare enforcement that would only be exacerbated by the fare increases, Mayor Garcetti and LA Board Supervisor and MTA Board representative Mark Ridley Thomas, introduced a narrowly defined motion to cap fares for MTA’s student monthly pass only - a wholly inadequate remedy in the context of the mass civil rights violations taking form in close to 700,000 citations over the course of several years from 2009 – May of 2016, to a majority poor and working class ridership.⁷⁵

More recently, we provided extensive testimony at the MTA Board meeting on June 23, 2106, citing again to the continued harm to Black riders, including citation rates that are over 3 times their rate of ridership.

The LA MTA has failed to adequately address a documented pattern and practice of racial discrimination and police misconduct that has been brought to their attention on multiple occasions by the Strategy Center over the course of several years. We therefore call for immediate reparations and request urgent intervention and oversight by the DOJ to protect against the systemic criminalization and persistent racial discrimination continuing to occur against Black transit riders.

V. Conclusion

We contend that MTA has demonstrated a pattern and practice of systemic criminalization and racial discrimination against Black transit riders. Racial disparities for Black riders have been extreme over many years. Policies and decision-making have created a highly subjective and highly criminalized form of fare enforcement that has created a public transit system that is pervasively hostile specifically towards Black riders. The extreme disproportionality, especially in light of a series of policies and decision-making to cut bus service, increase fares, and prioritize rail infrastructure that further alienates Black, transit-dependent riders, gives rise to the need for immediate and comprehensive federal intervention for violation of intentional and disparate impact racial

⁷⁵ This total includes all Sheriff citations prior to the Transit Court opening in 2012, all ‘criminal’ citations (defined by MTA and Sheriff as non-administrative) from 2014 – May 2016, and all MTA citations from 2012-May 2016.

U.S. Department of Justice

Civil Rights Division

Re: Civil Rights Complaint Against LA MTA and LASD for a Pattern and Practice of Systemic Criminalization and Racial Discrimination Against Black Transit Riders

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discrimination and a finding that MTA and its employed and contracted police are in violation of Title VI of the Civil Rights Act of 1964, the Equal Protection Clause of the 14th Amendment of the U.S. Constitution, and all relevant state and federal laws protecting against police brutality and racial discrimination.

Respectfully submitted:

DATED: November 14, 2016

By: _____

Eric Mann, Director
Labor/Community Strategy Center
(213) 387 – 2800
ericmann@mindspring.com